

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. CCB-16-0267
DANTE BAILEY, et al.,)
Defendants.)
_____)

Thursday, April 11, 2019
Courtroom 1A
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE
(AND A JURY)

VOLUME XIV

For the Plaintiff:

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Assistant United States Attorneys

For the Defendant Dante Bailey:

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Reported by:

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1 For the Defendant Randy Banks:

2 Brian Sardelli, Esquire

3 For the Defendant Corloyd Anderson:

4 Elita Amato, Esquire

5
6 For the Defendant Jamal Lockley:

7 Harry Trainor, Esquire

8 For the Defendant Shakeen Davis:

9 Paul Hazlehurst, Esquire

10
11 For the Defendant Sydni Frazier:

12 Christopher Davis, Esquire

13
14 Also Present:

15 Special Agent Christian Aanonsen, ATF

P R O C E E D I N G S

(10:08 a.m.)

THE COURT: Good morning, everyone. All right.

Okay. There are a couple of outstanding issues relating to a ballistics issue and a GPS issue, which I think we don't need to put on the record at this moment because the witnesses are not being called today, if at all.

So I assume we're ready to continue with Special Agent Moore? Is that where we were? Unless there's something else.

MS. HOFFMAN: I know Mr. Sardelli had an issue with respect to another witness being called today, but I didn't know if you wanted to address it now.

THE COURT: I'd rather get -- here we are, it's 10 o'clock.

MR. SARDELLI: I think we can do it later, Your Honor.

THE COURT: Yes. Even at a break. But let's get started.

So if you'd like to get the jury.

And if we have the witness ready, he can come back on the stand.

(Jury entered the courtroom at 10:10 a.m.)

THE CLERK: Agent Moore, you're still under oath.

THE WITNESS: Yes, ma'am.

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1 SPECIAL AGENT TIMOTHY MOORE, GOVERNMENT'S WITNESS,
2 PREVIOUSLY SWORN.

3 **THE COURT:** All right. Welcome back, everyone. We
4 are ready to continue with the witness.

5 Ms. Hoffman.

6 DIRECT EXAMINATION (CONTINUED)

7 **BY MS. HOFFMAN:**

8 **Q.** Good morning, Agent Moore.

9 **A.** Good morning, ma'am.

10 **Q.** I believe we left off on Tuesday with the murder of
11 Ricardo Johnson.

12 And do you recall listening to some wire calls intercepted
13 over Dwight Jenkins' cell phone that referenced a dispute with
14 Rick?

15 **A.** Yes, I do.

16 **Q.** And just to reorient us, I'm going to pull back up
17 Government's Exhibit TT-1-1218, the transcript.

18 And I'm going to turn to Page 128 in the transcript
19 binders.

20 And do you recall listening to this call on Tuesday and
21 hearing about an interaction between Dwight Jenkins and Rick
22 and Syd?

23 **A.** Yes, ma'am.

24 **Q.** Did you listen to calls of potential relevance to the
25 Ricardo Johnson murder that took place after the murder?

1 **A.** Yes.

2 **Q.** I'm going to pull up Call Number -- this is
3 Call Number J-65, which is on Page 211 of the jail call tab of
4 the transcript binders.

5 And we listened to a portion of this call already, but can
6 you remind us the date and time and participants of this call.

7 **A.** Yes, ma'am. The date and time was August 19th, 2016, at
8 approximately 7:48 in the evening. And the call is incoming
9 from Dante Bailey.

10 **Q.** And I'm going to play a very short portion from 5 minutes
11 and 12 seconds to 6 minutes and 6 seconds.

12 And can you remind us when this call is in relation to the
13 murder of Ricardo Johnson.

14 **A.** It's nine days later.

15 **THE COURT:** What page are we on?

16 **MS. HOFFMAN:** The transcript starts on 211, and I'm
17 going to start it at 5 minutes and 12 seconds, which is on
18 Page 214 of the transcript binder.

19 **THE COURT:** 214. Thank you.

20 (Audio was played but not reported.)

21 **BY MS. HOFFMAN:**

22 **Q.** Agent Moore, do you recognize the voices in that portion
23 of the call?

24 **A.** Yes. That was Dante Bailey and Jamal Lockley.

25 **Q.** And did you hear when Mr. Bailey said, "I heard about your

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1 uncle," followed by laughter?

2 **A.** Yes.

3 **Q.** I believe you testified on Tuesday that Ricardo Johnson
4 went by Uncle Rick; is that right?

5 **A.** Yes, I did.

6 **Q.** And did you hear when Mr. Bailey said he was trying to
7 catch the Light Rail?

8 **A.** Yes, ma'am.

9 **Q.** Can you remind us where Ricardo Johnson's body was found.

10 **A.** Adjacent to the Light Rail tracks in South Baltimore.

11 **Q.** As part of your investigation, Agent Moore, did you obtain
12 certified records from Instagram and Facebook for certain
13 accounts?

14 **A.** Yes, we did.

15 **Q.** And did you obtain records for a Facebook account
16 belonging to Dwight Jenkins?

17 **A.** Yes.

18 **Q.** I'm going to show you Government's Exhibit SM-4.

19 Can you tell us what we're looking at here.

20 **A.** Sure. That's the certified Facebook records for
21 Dwight T. Jenkins.

22 **Q.** And can you read the name here for the account.

23 **A.** Yep. That's Dwight T. Jenkins.

24 **Q.** And I'm going to show you Page 2 of this document, which
25 is Page 1042 of the Facebook business record.

1 Do you see that there's a message here from 2015-10-08?

2 **A.** Yes.

3 **Q.** Can you read what the message says there.

4 **A.** Yep.

5 And it says [reading]: Geeman Almighty-Emm Gutta Almighty
6 we all we got, ain't nothing coming between that #5200.

7 **Q.** Was there a subject of your investigation who went by
8 Gutta or Almighty?

9 **A.** Yes. That's Dante Bailey.

10 **Q.** And when you reviewed the account for Dwight Jenkins, did
11 you find other evidence of a relationship between Dante Bailey
12 and Dwight Jenkins?

13 **A.** Yes.

14 **Q.** I'm going to show you Page 5 of this exhibit, which is
15 Page 7,858 of the Facebook business return.

16 Do you see that there's a status posted on December 19th
17 of 2015?

18 **A.** Yes, ma'am.

19 **Q.** Could you read that status for us.

20 **A.** Sure.

21 [Reading]: I must be getting old. I haven't put my hands
22 on anyone in six months. Since me and Almighty trashed those
23 fools at the gas station and me and him trashed some people
24 down Norma's. Miss you, Gutta.

25 **Q.** I'm going to show you Page 8 of this document, which is

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1 Page 8,626 of the Facebook business record.

2 Do you see that there is a comment here from October 16th
3 of 2014?

4 **A.** Yes, ma'am.

5 **Q.** And can you -- or, I'm sorry, a status. Could you read
6 the status, first, for us.

7 **A.** Sure. You want the one on the 16th, the top one?

8 **Q.** I'm sorry. The one below that where it says, "Posted
9 2014-10-15."

10 Can you read the status there.

11 **A.** Yes, ma'am. Sure.

12 It says [reading]: Free LorCreams. Free Gutta. Free
13 Ice. Free Easy. That's four in four weeks. This shot crazy.

14 **Q.** And I'm going to show you Page 10 of this document, which
15 is Page 8,736 of the Facebook business record.

16 I'm going to zoom in on this status from June 26th of
17 2014.

18 Do you see where it says [reading]: I did get to spend
19 time with my nephew Gutta. It's always good to pleasure being
20 around the Wolf?

21 **A.** Yes, ma'am.

22 **Q.** I'm going to show you Page 12 of the document, the
23 exhibit, which is Page 8,771 of the Facebook business return.

24 Do you see that there's a status posted May 24th of 2014?

25 **A.** Yes, ma'am.

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1 Q. Could you read that status for us.

2 A. Sure.

3 [Reading]: I had my lightning bolt since 1997. My nephew
4 has one of the meanest lightning bolts on his face. I'm trying
5 to get some more, but I need to really take my time and do the
6 next ones right. Or maybe I can get the same one on the right
7 side and two on my hands. If you get caught with those bolts
8 and you're not supposed to have them, M M M, exclamation point.

9 Q. Do you see that there's a comment from user Dante GreatOne
10 under that?

11 A. Yes, ma'am.

12 Q. And were you able to determine the user of the account
13 Dante Great One?

14 A. Yes. That's Dante Bailey.

15 Q. And can you read the text of that comment.

16 A. [Reading]: Tell them again, Unc. The science behind the
17 lightning is deep. Ask yourself, when lightning strikes, who
18 will it hit?

19 And then the word "right."

20 [Reading]: So when you come uptown to the hill, 5200,
21 think wise. All my N's, ABK.

22 Q. I'm going to show you Page 13, which is the next page of
23 the exhibit, and Page 8,776 of the Facebook business return.

24 Do you see that there's a status posted on May 19th of
25 2014?

1 A. Yes, ma'am.

2 Q. Can you read that status for us.

3 A. Sure.

4 [Reading]: Touch one of mine, and we all ride, hyphen,
5 Gutta.

6 Q. And, finally, I'm going to show you Page 14 of the
7 exhibit, which is the next page, and Page 26,667 of the
8 Facebook business record.

9 Do you see that there's an exchange of messages here
10 between Dwight Jenkins and someone notated as Crystal White?

11 A. Yes.

12 Q. And can you start with the message at the top sent on
13 August 11th, 2016, by author Crystal White.

14 A. Yes. That one says [reading]: Rick got killed.

15 The next one is from Dwight Jenkins and says [reading]:
16 Fuck that N. We was beefing last week real heavy.

17 And the next one is again from Dwight Jenkins. And it
18 says [reading]: We was beefing two weeks ago on Gwynns Falls.

19 Q. And when are those messages in relation to the
20 Ricardo Johnson murder?

21 A. They are one day later.

22 Q. Did your investigation reveal any other evidence of
23 relationship or association between Dwight Jenkins and -- I'm
24 sorry, between Dante Bailey and Sydni Frazier?

25 A. Yes.

1 Q. I'm going to show you Government's Exhibit IC-24, which
2 has been introduced as a file from Dante Bailey's
3 iCloud account.

4 Can you tell us what we're looking at here.

5 A. Sure. That's a photograph. If you look to the right of
6 the screen in the black shirt with the red bandana, that's
7 Dante Bailey.

8 Immediately to his right, that's Sydni Frazier.

9 And then Jamal Lockley is in the middle with the blue and
10 blue stripes.

11 Q. And I'm going to -- well, as part of your investigation,
12 did you obtain videos posted to YouTube?

13 A. Yes.

14 Q. I'm going to play you a short clip from
15 Government's Exhibit YT-5, and this will be starting at
16 6 minutes and 49 seconds.

17 (Video was played but not reported.)

18 **BY MS. HOFFMAN:**

19 Q. Who is that there?

20 A. That is Dante Bailey.

21 (Video was played but not reported.)

22 **BY MS. HOFFMAN:**

23 Q. Did you recognize -- did you hear someone say "bands out"
24 just then?

25 A. Yes, ma'am.

1 Q. Did you recognize that voice?

2 A. That's Sydni Frazier.

3 Q. And I'm going to continue playing.

4 (Video was played but not reported.)

5 BY MS. HOFFMAN:

6 Q. Do you recognize the profile of the person here on the
7 left?

8 A. Yep. That's Sydni Frazier all the way on the left.

9 (Video was played but not reported.)

10 BY MS. HOFFMAN:

11 Q. And I guess I should have asked you: Where did that video
12 come from?

13 A. That was from the -- from a YouTube.

14 Q. Do you recall -- I'm going to show you
15 Government's Exhibit SM-20.

16 Do you recall testifying on Tuesday that this -- you
17 determined that this Instagram account, rip_bigsidnbarakaat,
18 belonged to Sydni Frazier?

19 A. Yes, ma'am.

20 Q. I'm going to show you Page 76 of this exhibit.

21 And who are we looking at there?

22 A. That's Sydni Frazier.

23 Q. And can you read -- well, do you see the stat -- the text
24 of the status up here (indicating)?

25 A. Yes.

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1 Q. Do you see where it says [reading]: Free Gutta, free da
2 real 'cause they know da deal?

3 A. Yes.

4 Q. And do you recall on, I believe it was on Monday of this
5 week, listening to a series of jail calls from Dante Bailey
6 after he was arrested on May 17th of 2016?

7 A. Yes, ma'am.

8 Q. And can you remind us, was there mention of Syd in those
9 calls?

10 A. There was.

11 Q. You testified that you arrested Sydni Frazier on
12 January 25th of 2017. And what was he charged with on that
13 date?

14 A. Possession of a handgun.

15 MS. HOFFMAN: Your Honor, may we actually approach
16 briefly?

17 THE COURT: Yes.

18 (Bench conference on the record:

19 THE COURT: So we're waiting while everybody gets
20 headphones.

21 All your clients -- everybody's got their headphones.

22 Okay.

23 MS. HOFFMAN: So the Government proposed a stipulation
24 to Sydni Frazier's prior felony conviction.

25 My understanding as of Tuesday was that he did not

1 wish to enter into that stipulation. And so what I plan to do
2 right now is to put in certified records of his two prior
3 convictions. One is for CDS possession with intent to
4 distribute, and one is for fourth-degree burglary.

5 However, I wanted to give him another opportunity on
6 the record to say whether or not he would like to enter into
7 that stipulation.

8 **MR. DAVIS:** I will check with him very quickly.

9 (The defendant conferred with counsel.)

10 **MR. DAVIS:** He says, No, he does not want to
11 stipulate.

12 **THE COURT:** He does not wish to stipulate; is that --

13 **MR. DAVIS:** I don't know. Let me go check.

14 (The defendant conferred with counsel.)

15 **MR. DAVIS:** He does not want to stipulate.

16 **THE COURT:** Okay. There is -- the January 25th, '17
17 arrest, is this -- is there a charge that -- as to which the
18 jury will need to reach a decision? In count what of the
19 crime?

20 **MR. DAVIS:** I guess the weapons.

21 **THE COURT:** 30? Is it Count 30?

22 **MR. DAVIS:** Felon in possession.

23 **THE COURT:** Well, that's afterwards. That's
24 February 24th.

25 **MS. HOFFMAN:** Should be back a couple pages from that.

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1 I apologize. I don't have the number.

2 **MS. PERRY:** It's after that. I'm sorry.

3 **MS. HOFFMAN:** It's August 10th of 2016 is the date.

4 **THE COURT:** Is there -- there's a Count 16 that says
5 on or about April 26th, 2016.

6 **MS. HOFFMAN:** No. So it's Sydney Frazier, August 10th
7 of 2016. And if I could grab my indictment, I could tell you
8 that -- the count number. I just don't have it at my
9 fingertips.

10 **THE COURT:** Okay. Does it have to go in at this
11 precise moment? How much longer is he going to be on?

12 **MS. HOFFMAN:** He'll be on for a little while.

13 **THE COURT:** I'm just thinking that we might actually,
14 instead of us doing this up at the bench, we can do this when
15 the jury is out of the room.

16 **MS. HOFFMAN:** Sure.

17 **THE COURT:** You can inquire with Mr. Frazier directly
18 to make sure that that's what he wants. Okay.

19 **MS. HOFFMAN:** Thank you.)

20 (Bench conference concluded.)

21 **BY MS. HOFFMAN:**

22 **Q.** So, Agent Moore, you testified that you arrested
23 Sydney Frazier on January 25th of 2017; is that right?

24 **A.** Yes.

25 **Q.** And did you listen to any jail calls made by Sydney Frazier

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1 after his arrest?

2 **A.** Yes, I did.

3 **Q.** I'm going to play Government's Exhibit J-69, which is on
4 Page 229 of the jail call tab of the transcript binders.

5 And can you tell us the date and time of this call.

6 **A.** Sure. It's January 26th, 2017, at approximately 5:01 p.m.

7 **Q.** And do you see where it says "Dialed Number" here?

8 **A.** Yes.

9 **Q.** And I believe you testified on Tuesday that you were able
10 to identify that number as belonging to Ariel Johnson.

11 **A.** Yes, ma'am.

12 **Q.** I'm going to play the first 17 seconds here.

13 (Audio was played but not reported.)

14 **MS. HOFFMAN:** And I'm going to skip ahead to 4 minutes
15 and 22 seconds into the call.

16 (Audio was played but not reported.)

17 **BY MS. HOFFMAN:**

18 **Q.** Agent Moore, can you remind us, was there a subject of
19 your investigation who went by Creams?

20 **A.** That's Shakeen Davis.

21 **Q.** And did you hear Ms. Johnson say [reading]: This Creams
22 calling me?

23 **A.** Yes, ma'am.

24 (Audio was played but not reported.)

25 **BY MS. HOFFMAN:**

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1 Q. Do you recognize the voice of the person who just joined
2 the call?

3 A. Yes; that's Shakeen Davis.

4 (Audio was played but not reported.)

5 MS. HOFFMAN: And I'm going to skip ahead to 5 minutes
6 and 50 seconds into the call here.

7 (Audio was played but not reported.)

8 BY MS. HOFFMAN:

9 Q. Did you hear when Mr. Frazier said [reading]: Yo got a
10 thousand for me?

11 A. Yes.

12 Q. And did you hear what Mr. Frazier said [reading]: He know
13 my name by my other name. He ain't going to know my name by my
14 legit name?

15 A. Yes, ma'am.

16 Q. I'm going to play you another call. This one is J-70, and
17 it's on Page 223 of the transcript binders.

18 I'm going to start by playing the first 20 seconds.

19 (Audio was played but not reported.)

20 MS. HOFFMAN: And now I'm going to skip ahead to
21 7 minutes and 35 seconds into the call.

22 (Audio was played but not reported.)

23 BY MS. HOFFMAN:

24 Q. I'm going to put the transcript up here.

25 Can you tell us what the date and time of that call was.

1 **A.** Yep. It's January 26th, 2017, at about 8:54 p.m.

2 **Q.** And did you recognize the voices of the participants in
3 that call?

4 **A.** I did.

5 **Q.** Who were they?

6 **A.** Sydni Frazier and Ariel Johnson.

7 **Q.** And I'm flipping over to the second page of the transcript
8 for this call.

9 Did you hear when Mr. Frazier said [reading]: Tell Creams
10 when you call him, tell him that, uh, that Perry, Perry told
11 him to call him?

12 **A.** Yes, ma'am.

13 **Q.** And I believe you testified on Tuesday that, in your
14 experience, it's common for drug dealers to give different
15 names to customers; is that right?

16 **A.** That's correct.

17 **Q.** And I want to pull back up Government's Exhibit CELL-5-A,
18 which you identified on Tuesday as excerpts from the certified
19 extraction report from one of the phones recovered in the
20 2100 block of Tucker Lane on August 10th of 2016.

21 And I'm going to go to Page 6 of this document.

22 Can you see the text here on July 13th of 2016 from the
23 phone that says, "It's Perry"?

24 **A.** Yes, ma'am.

25 **Q.** And I'm going to pull back up

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1 Government's Exhibit CELL-6-A, which you identified on Tuesday
2 as a hand search of one of the -- the other phone recovered on
3 August 10th of 2016 from the 2100 block of Tucker Lane.

4 And I'm going to show you Page 10 of this document.

5 And do you see that there's an incoming text here on
6 July 6th of 2016 (indicating)?

7 **A.** Yes, ma'am.

8 **Q.** And can you read that for us.

9 **A.** Sure.

10 [Reading]: Dude, that white shit was trash, man. No
11 good. Damn Perry got my girl's nose bleeding.

12 **Q.** And then I'm going to show you Page 27 of this document.

13 And do you see that there's a sent message on August 9th
14 of 2016 that says, "Perry"?

15 **A.** Yes.

16 **Q.** I'm going to pull back up Government's Exhibit SF-10-D.
17 And can you remind us what we're looking at here.

18 **A.** That's a screenshot from the surveillance video of
19 2100 Tucker Lane, out the exterior of 2100 Tucker Lane.

20 **Q.** And can you tell us -- describe for the record what the
21 suspect in this photo -- what the person in this photo is
22 wearing.

23 **A.** It's going to be dark-colored shorts and a white T-shirt.

24 **Q.** And I'm now going to play you Government's Exhibit J-71,
25 which is on Page 235 of the jail call tab of the transcript

1 binders.

2 And I'm going to start by just playing the first
3 15 seconds or so.

4 (Audio was played but not reported.)

5 **MS. HOFFMAN:** I'm going to skip ahead to 3 minutes and
6 19 seconds into this call.

7 (Audio was played but not reported.)

8 **BY MS. HOFFMAN:**

9 **Q.** I'm going to put the transcript up here.

10 Can you tell us the date and time of this call.

11 **A.** Yes, ma'am. It's January 29th, 2017, at about 9:13 p.m.

12 **Q.** Did you recognize the voices of the participants in the
13 call?

14 **A.** I did.

15 **Q.** Who was it?

16 **A.** Sydni Frazier and Ariel Johnson.

17 **Q.** And did you hear when Mr. Frazier said [reading]: Put
18 that motherfucker in the recycle bin?

19 **A.** Yes.

20 **Q.** And [reading]: I liked them shorts, too?

21 **A.** Yes, ma'am.

22 **Q.** Now, a minute ago we listened to a jail call between
23 Sydni Frazier and a person you identified as Shakeen Davis.

24 Did you listen to any earlier jail calls from Frazier to
25 Davis?

1 **A.** Yes, I did.

2 **Q.** And I'm going to play you part of government's
3 Call No. J-2, which is on Page 2 of the jail call tab of the
4 transcripts binders.

5 And can you tell us the date and time of this call.

6 **A.** My screen's blank right now.

7 **Q.** Sorry.

8 **A.** That's going to be August 2nd, 2014, at about 10:31 in the
9 morning.

10 **Q.** So this is a couple years back in time; is that right?

11 **A.** Yes, ma'am.

12 **Q.** I'm going to play the first minute and 35 seconds of this
13 call.

14 (Audio was played but not reported.)

15 **BY MS. HOFFMAN:**

16 **Q.** Do you recognize the voices of the participants in this
17 call?

18 **A.** Yes, ma'am.

19 **Q.** Who is it?

20 **A.** Sydni Frazier and Shakeen Davis.

21 **Q.** Did you hear when Mr. Davis said [reading]: What's
22 mobbin', G?

23 **A.** Yes, ma'am.

24 **MS. HOFFMAN:** I'm going to skip ahead to 5 minutes and
25 15 seconds into the call.

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(Audio was played but not reported.)

BY MS. HOFFMAN:

Q. I'm going to pause it there.

Did you hear when Mr. Davis said [reading]: I think they was getting -- collecting bail money for you and shit from around the way from T and Bo?

A. Yes, ma'am.

Q. I'm going to play a portion of Government's Exhibit or Call No. J-3, which is on Page 5 of the transcript binders.

Can you read the date and time of this call.

A. It's August 3rd, 2014, at about 5:58 p.m.

MS. HOFFMAN: And I'm going to skip ahead to 8 minutes and 54 seconds into the call, which will be on the next page.

(Audio was played but not reported.)

BY MS. HOFFMAN:

Q. I'm going to pause it there.

Did you hear that there was reference to someone named Mugs who got on the phone?

A. Yes, ma'am.

Q. Was there a subject of your investigation who went by Mugs?

A. Yes.

Q. And who was that?

A. Cameron Allen.

Q. And did you hear that there was a reference to someone

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1 named Ed?

2 **A.** Yes.

3 **Q.** Was there a subject of your investigation who went by Ed?

4 **A.** Ed Pollard.

5 **Q.** And did you hear when Mr. Frazier said [reading]:

6 "N" words gotta work together. That's the whole point of this
7 situation?

8 **A.** Yes, ma'am.

9 **Q.** I'm going to pull up Call J-4, which is on Page 14 of the
10 transcript binders, and play a short clip from that call.

11 And can you tell us the date and time of this call.

12 **A.** That's August 4th, 2014, at about 5:44 p.m.

13 **Q.** And I'm going to skip ahead to 3 minutes and 3 seconds
14 into the call.

15 (Audio was played but not reported.)

16 **BY MS. HOFFMAN:**

17 **Q.** Did you recognize the voices of the participants in that
18 call?

19 **A.** Yes, ma'am.

20 **Q.** Who are they?

21 **A.** Sydni Frazier and Shakeen Davis.

22 **Q.** And did you hear that there was discussion of collection
23 of money for bail payment?

24 **A.** I did.

25 **Q.** I'm going to play a couple short clips from one more call.

1 This is J-5, which is on Page 15 of the transcript binders.

2 And can you tell us the date and time of this call.

3 **A.** It's August 22nd, 2014, at about 4:51 p.m.

4 **MS. HOFFMAN:** And I'm going to play a short clip,
5 starting at 4 minutes and 18 seconds.

6 (Audio was played but not reported.)

7 **BY MS. HOFFMAN:**

8 **Q.** I'm just going to pause it there.

9 Do you recognize the voices there?

10 **A.** Yes. That's Sydni Frazier and Shakeen Davis.

11 **Q.** And was there a subject who came up in your investigation
12 who went by Nutty?

13 **A.** It's Brian Johnson.

14 (Audio was played but not reported.)

15 **BY MS. HOFFMAN:**

16 **Q.** Did you hear when Mr. Davis said -- well, did you hear
17 when Mr. Davis said [reading]: Nutty had to get in a circle?

18 **A.** Yes.

19 **Q.** And then did you hear when Mr. Davis said [reading]: I
20 guess some shit Gutta knows something about?

21 **A.** Yes.

22 **MS. HOFFMAN:** And I'm going to skip ahead all the way
23 to 7 minutes and 35 seconds into this call. It picks up on the
24 second-to-last page of that transcript.

25 (Audio was played but not reported.)

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BY MS. HOFFMAN:

Q. Did you recognize the voices of the participants in that call?

A. Yes. That's Sydni Frazier and Shakeen Davis.

Q. And scrolling back up, did you hear when Mr. Frazier said [reading]: I got this plan for us?

A. Yes.

Q. Did you hear when he said [reading]: 'Cause I know where it's at. It's down Lottie shit?

A. Yes.

Q. Did you hear he said [reading]: It's easy to fox they situation out. And it's easy to get up in it, in and out?

A. I did.

Q. And then scrolling to the last page of the transcript here, did you hear when Mr. Frazier said, "Heartbeat"?

A. I did.

Q. As part of your investigation, did you obtain certified business records for Instagram accounts belonging or believed to be belonged -- believed to be used by Sydni Frazier?

A. Yes.

Q. I'm going to show you Government's Exhibit SM-15.

And can you tell us what we're looking at here.

A. That's one of the certified business accounts from Instagram.

Q. And can you read the vanity name for us.

~~MOORE - DIRECT~~

1 A. It's getmneyboy.

2 Q. And the registered e-mail address for us?

3 A. It's lilsid5200@yahoo.com.

4 Q. And I'm going to scroll to Page 2. Who are we looking at
5 there?

6 A. That's Sydni Frazier.

7 Q. And I'm going to scroll to Page 5.

8 Do you see that there's a comment by user getmneyboy?

9 A. Yes.

10 Q. On January 17th of 2017?

11 A. Yes, ma'am.

12 Q. And would you mind reading the text there for us.

13 A. Sure.

14 [Reading]: Every real N need this app CorrLinks. Take
15 time out to holla at ya.

16 And those little empty squares are the way that emojis
17 look, so that's on emoji there.

18 [Reading]: Ones behind that big G-wall, free Spittle.
19 You home sooner than they think.

20 Then there's another emoji.

21 [Reading]: He said tell Mal he hollered at him real loud
22 and whenever he get time if he do. Tell him come up Fairton,
23 New Jersey. It's like college.

24 And then there's another string of emojis.

25 Q. Was there a subject of your investigation who went by

1 Spittle?

2 A. Yes.

3 Q. And who was that?

4 A. Adrian Spence.

5 Q. And was he incarcerated as of January 17th of 2017?

6 A. He was.

7 Q. And where was he incarcerated?

8 A. At FCI Fairton.

9 Q. And I'm going to scroll to the next page of this exhibit.

10 Do you see that there's a comment by getmneyboy on
11 January 17th of 2017?

12 A. Yes.

13 Q. And ignoring the blank boxes for emojis, can you read what
14 that says.

15 A. Sure.

16 [Reading]: Free Spittle, PinkyRo, Mally, Potter, Smallz,
17 Reese. Da rest of da coons.

18 Q. Is there a subject of your investigation who went by Mal?

19 A. Yes. That's Jamal Smith.

20 Q. And was there a subject of your investigation who went by
21 Reese?

22 A. That's Maurice Pollock.

23 Q. I'm going to scroll to Page 11.

24 And can you read the highlighted text here for us
25 (indicating).

1 A. [Reading]: GMB, FreeSp, FreeTiff, MallyGGS.

2 Q. I'm going to show you Government's Exhibit SM-20.

3 And can you tell us what we're looking at here.

4 A. It's another certified business record from Instagram.

5 Q. And is this for account rip_bigsidnbarakaat?

6 A. Yes, it is.

7 Q. And did you review excerpts from this account?

8 A. Yes.

9 Q. And did you find any posts relating to cooperation with
10 law enforcement?

11 A. I did.

12 Q. I'm going to show you Page 9 of
13 Government's Exhibit SM-20.

14 Do you see that there's a caption from April 15th of 2016?

15 A. Yes.

16 Q. And would you mind reading the text of that.

17 A. Sure. [Reading]: I respect the one who shut the fuck up,
18 not the one who gave us all up. Free every real "N" in the
19 chain gang. Free Spittle. Free Mal. Free Reese. It's just
20 too many.

21 Q. And I'm going to show you Page 82 of this exhibit.

22 And do you recognize the people in this photo?

23 A. I do.

24 Q. Who are they?

25 A. From left to right, it's going to be Sydni Frazier,

1 Shakeen Davis in the middle, and then that's Cameron Allen on
2 the far right.

3 Q. And is that the person you said went by Mugs?

4 A. Yes, ma'am.

5 Q. And can you see what Shakeen Davis's shirt says?

6 A. It says, "Stop snitching."

7 Q. I'm going to show you Page 93 of this document.

8 And can you tell us what we're looking at here.

9 A. It's a -- looks like a meme that says, "Snitches Get
10 Stitches."

11 Q. And then I'm going to scroll to the next page, which is
12 also the next page of the Instagram business record.

13 And do you see that there's a caption here (indicating)?

14 A. Yes.

15 Q. Can you read the text of that caption.

16 A. [Reading]: Some people it's just in their blood to rat.

17 That's why in life watch what you do and say 'cause anger a
18 make another human do dis fast to see you down bad. Bitch bite
19 the bullet, #snakebitches.

20 Q. I'm going to show you Page 10 of this document.

21 And what are we looking at here?

22 A. That's Mr. Frazier standing in front of a wall that says
23 "5200" on it.

24 Q. I'll show you Page 3.

25 Who are we looking at here?

1 **A.** That's Cameron Allen on the left and Sydni Frazier on the
2 right.

3 **Q.** And I'm going to show you Page 32 of this exhibit.

4 Who are we looking at here?

5 **A.** That's -- from right to left, that's Sydni Frazier all the
6 way on the right. That's Ed Pollard second in from the left.
7 And I believe that's -- I'm not sure who that is on the left.

8 **Q.** Can you see better there who that is?

9 **A.** Yeah. That's Sydni Frazier on the right, Cameron Allen in
10 the middle, and that's Ed Pollard on the left.

11 **Q.** And I'm going to show you Page 34.

12 Who are we looking at here?

13 **A.** Shakeen Davis on the left and Sydni Frazier on the right.

14 **Q.** And I'm going to show you Page 63.

15 Do you recognize the people in this photo?

16 **A.** That's -- the bright-blue shirt is Jamal Smith and the
17 jean jacket is Cameron Allen. And it looks like Ed Pollard on
18 the far right.

19 **Q.** And I'm going to scroll to the next page.

20 Do you see that there's a status here (indicating)?

21 **A.** Yes, ma'am.

22 **Q.** Can you read the text of that status.

23 **A.** [Reading]: Play wit me if you want to. I wouldn't advise
24 you to. I'ma have some slick, young "N's" at your door.

25 **Q.** I'm going to show you Page 74 of this exhibit.

~~MOORE - DIRECT~~

1 Who are we looking at here?

2 **A.** On the left side that's Melvin Lashley. That's
3 Sydni Frazier in the middle. And I'm not sure who the far
4 right is.

5 **Q.** And I'm going to show you Page 99 of this document.

6 Do you recognize any of the people on this photo?

7 **A.** That on the far right with no shirt appears to be
8 Adrian Spence.

9 **Q.** And who's crouched down below?

10 **A.** That's Sydni Frazier.

11 **Q.** I'm going to show you Page 49 of this document.

12 Can you tell us what -- do you see where there's a --
13 looks like a screenshot of a tweet?

14 **A.** Yes.

15 **Q.** And can you tell us what that says.

16 **A.** It says [reading]: I been praying for a plug.

17 **Q.** And what's the Twitter handle?

18 **A.** Jrbo\$\$.

19 **Q.** And below that?

20 **A.** @SidFrazier.

21 **Q.** I'm going to show you Page 69 of this document. Can you
22 see that there's another what looks like a screenshot of a
23 tweet from that Twitter handle?

24 **A.** Yes.

25 **Q.** Can you tell us what that one says.

~~MOORE - DIRECT~~

1 **A.** Sure.

2 [Reading]: You can be here today, gone any minute.

3 That's why I just pray, thank God that I'm living it -- or that

4 I'm living. I do it for da hood whole. Riding wit me.

5 **Q.** Can you try -- can you read that last part again.

6 **A.** Sure.

7 [Reading]: I just pray, thank God that I'm living. I do
8 it for da hood whole.

9 And then there's a set of emojis that spell out MOB.

10 [Reading]: Riding wit me.

11 **Q.** And then I'm going to show you Page 84 of this document.

12 Do you see that there's a caption here?

13 **A.** Yes.

14 **Q.** Can you read the text of that caption.

15 **A.** [Reading]: Free rams. Free pick. Heartbeat.

16 And a lightning bolt and a heart.

17 **Q.** And finally, I'm going to show you Page 115 of this
18 document.

19 Can you tell who the person is on the right here
20 (indicating)?

21 **A.** Yes. That's Sydni Frazier.

22 **Q.** Are you able to see -- I realize the photo quality is not
23 very good.

24 Are you able to see who any of the people are in this
25 photo?

~~MOORE - DIRECT~~

1 A. That looks like Adrian Spence in the middle. And some of
2 the others are -- I'm not really sure on.

3 Q. And scrolling to the next page, which is also the next
4 page of the business record, do you see that there's a caption
5 for that photo?

6 A. Yes.

7 Q. And can you read the text of that caption.

8 A. [Reading]: Only the family in our eyes. You can't divide
9 us. I got some ole heads telling me right. They say you
10 snitching, you just gambling wit ya.

11 And then emojis.

12 Q. Agent Moore, you testified on Tuesday that when you
13 arrested Sydni Frazier on January 25th of 2017, you recovered
14 some cell phones.

15 A. Yes.

16 Q. And were those cell phones -- did you -- was a
17 search warrant obtained for those cell phones?

18 A. Yes.

19 Q. And were they searched pursuant to a search warrant?

20 A. They were.

21 Q. And I'm going to show you Government's Exhibit CELL-7-A,
22 which has been identified as excerpts from the certified
23 extraction report for Government's Exhibit CELL-7, which you
24 identified as one of the cell phones recovered from Frazier on
25 January 25th of 2017.

~~MOORE - DIRECT~~

1 And can you tell us the device number for this phone.

2 A. Sure. It's (443) 531-9032.

3 Q. And do you see that there is a text here that references
4 Syd?

5 A. Yes.

6 Q. Do you see there's a contact for Dinero --

7 A. Yes.

8 Q. -- here (indicating)?

9 And was there a subject of your investigation who went by
10 Dinero?

11 A. Yes. That's Shakeen Davis.

12 Q. And then do you see that there are a series of
13 text messages sent from the phone starting at the bottom of
14 this page?

15 A. Yes.

16 Q. And can you read the text of those text messages.

17 A. Sure.

18 The first is [reading]: Got that fire on the boy.

19 And then [reading]: You can test it if you buy something.

20 It a 10.

21 And then [reading]: I got the white boy.

22 And finally [reading]: Got the fire boy.

23 Q. And is the sender the same number as the device number --

24 A. Yes --

25 Q. -- here?

~~MOORE - DIRECT~~

1 **A.** -- for each.

2 **Q.** And then scrolling down to the next page, you see there's
3 a continuation of text messages from this phone to a lot of
4 different numbers?

5 **A.** Yes.

6 **Q.** And can you read those.

7 **A.** Sure.

8 [Reading]:

9 White out. It's a bomb.

10 Got the white bomb back. It's straight white.

11 **Q.** And do you see that there's text exchange here that says
12 [reading]: What you need?

13 And [reading]: Three whole ones.

14 **A.** Yes.

15 **Q.** Scrolling to the next page, do you see that there's a text
16 exchange here that says [reading]: Two whole.

17 [Reading]: Hey, bro, I'ma need a G but separated a half
18 and a half.

19 And [reading]: Three whole ones?

20 **A.** Yes.

21 **Q.** And then would you mind reading the text of this text to
22 the phone.

23 **A.** Sure. It starts with [reading]: IDK if you've been
24 stomping on it, your connect changed, or what's going on. But
25 it's not worth me driving basically an hour there and back,

~~MOORE - DIRECT~~

1 spending 50, and having to do it all in one sitting. Like I
2 said, if you get the actual fire back, lmk and I'll start
3 coming back.

4 Q. And do you see that there's an exchange here that says
5 [reading]: Four whole ones.

6 [Reading]: Can you do 380?

7 A. Yes.

8 Q. And can you remind us again how much heroin usually sells
9 for -- how much a gram of heroin usually sells for in
10 Baltimore, based on your experience.

11 A. Between 80 and 120 dollars.

12 Q. Scrolling to the next page, would you mind reading the
13 text of these -- these text messages here.

14 A. Sure. Can you blow it up. Thanks.

15 The first is [reading]: Yo, I just sold a gram out of
16 that 3-piece. So it's 2.3 wit da bag, but I'ma just take da 20
17 from da ova day out of here, so it's going to be 80 waiting for
18 you.

19 And then the second is [reading]: I'm omw. My boy needs
20 a whole, too.

21 Q. And do you see that there's an image here down below?

22 A. Yes.

23 Q. And what does that appear to be an image of?

24 A. It's a picture of a dirt bike.

25 Q. I'm going to show you Government's Exhibit CELL-8-A, which

~~MOORE - DIRECT~~

1 has been identified as excerpts from a certified extraction
2 report for Government's Exhibit CELL-8, which you identified as
3 another one of the phones recovered from Sydni Frazier on
4 January 25th of 2017.

5 Do you see that there are a number of text messages
6 referencing Syd here?

7 **A.** Yes.

8 **Q.** And do you see that there's a text to the phone that says
9 [reading]: You be giving testers all day? I don't get home
10 from work till like 3-4?

11 **A.** Yes.

12 **Q.** Scrolling to the next page, do you see that there's a --
13 well, I guess I should scroll up.

14 What's the device number for this phone?

15 **A.** It's (443) 454-4707.

16 **Q.** And on the next page, do you see that there's a
17 text message from that phone to a number of different people?

18 **A.** Yes.

19 **Q.** And can you read the text of that message.

20 **A.** Yep.

21 [Reading]: Hey, what's up? It's Perry from Forest Park
22 BP. I have a new phone, and I'm giving out testers of the boy.
23 And it's super fire, guaranteed satisfied.

24 **Q.** And on the next page, do you see that there's a similar
25 text sent to a number of additional people?

~~MOORE - DIRECT~~

1 A. Yes.

2 Q. Would you mind reading this text exchange for us.

3 A. Sure. Now, the first is incoming to the device.

4 [Reading]: How much is it a g? Because we've been
5 getting killer shit for a buck a g.

6 And then the response from the phone is [reading]: 90 if
7 you get more than 10 or 20. Anything under that, a buck.

8 Q. Scrolling to the next page, do you see that there's a text
9 from a contact Italiano that says [reading]: I need like three
10 or four?

11 A. Yes.

12 Q. Do you see there's a text from a number ending in 3714
13 that says [reading]: I have 140. Can you do two for that and
14 I'll catch up with you Friday?

15 A. Yes.

16 Q. And then the response says [reading]: Okay. I got you.

17 A. Uh-huh. Yes.

18 Q. Scrolling to the next page, do you see that there's a text
19 from the phone to that number ending in 3714?

20 A. Yes.

21 Q. Would you mind reading that.

22 A. You can come get ya money and never call me 'cause I know
23 what I'm working with. I watched my uncle shoot a small bit of
24 that and almost OD. So for you to say what you're saying,
25 you're lying. Just come get your money.

1 Q. Do you see that there's a text from the phone that says
2 [reading]: They say that white good?

3 A. Yes.

4 Q. And would you mind reading this text to the phone.

5 A. [Reading]: Much better than before. Strong 8 to 9
6 grading.

7 Q. Scrolling to the next page, do you see that there's a text
8 from the phone that says [reading]: I got a missile. And I a
9 let you try it.

10 A. Yes.

11 Q. And then [reading]: How much a g?

12 And [reading]: 100.

13 A. Yes, ma'am.

14 Q. And then you see that there's a series of text messages
15 from the phone similar to the one you read a minute ago.

16 [Reading]: Hey, what's up? It's T from Forest Park BP.
17 I have a new phone, and I'm giving out testers of the boy. And
18 it's super fire, guaranteed satisfied?

19 A. Yes, ma'am.

20 Q. And then scrolling to the next page.

21 Do you see that there's a text exchange with the phone
22 [reading]:

23 Pretty good. How much for a g?

24 120 for that, and I have some gray for 100?

25 A. Yes, ma'am.

~~MOORE - DIRECT~~

1 Q. And then would you mind reading this text exchange here
2 (indicating).

3 A. The first is incoming [reading]: That shit is stepped on
4 hard and too much cut.

5 Outgoing response is [reading]: What? You lying.

6 And then [reading]: Show me you can do some and don't get
7 fucked up. I don't play no games.

8 And finally outgoing again is [reading]: I got people
9 spending money.

10 Q. Scrolling to the next page, can you read this exchange
11 here (indicating).

12 A. Yep. Incoming to the phone is [reading]: 100 a G; right?

13 And then the next two responses are outgoing [reading]:
14 120.

15 [Reading]: It's fire.

16 And then the final one is incoming [reading]: I can only
17 do 3 gs, then. Only got 360.

18 Q. And do you see there's a text to the phone on January 23rd
19 of 2017?

20 A. Yes.

21 Q. Can you read that text.

22 A. [Reading]: I'm in the hospital. Whatever was in that
23 stuff gave me a blood infection.

24 Q. And scrolling to the next page and last page, can you read
25 the continuation of that exchange.

~~MOORE - DIRECT~~

1 **A.** Yes. The -- it's -- both are outgoing from the device
2 [reading]: SMH. What the fuck? That's crazy.

3 [Reading]: The white's back around. Real good.

4 **Q.** Did we read every single text message in the excerpts that
5 we've just gone through?

6 **A.** No, ma'am.

7 **Q.** Are there additional similar text messages in those
8 excerpts?

9 **A.** Quite a few.

10 **THE COURT:** Are we at a good point for a break,
11 Ms. Hoffman?

12 **MS. HOFFMAN:** I think we're at a good point for a
13 break. Thank you.

14 **THE COURT:** All right. I'll start by excusing the
15 jury.

16 (Jury left the courtroom at 11:19 a.m.)

17 **THE COURT:** I'll excuse the witness.

18 **THE WITNESS:** Thank you, ma'am.

19 **THE COURT:** And then before the rest of us, before we
20 take a break, let me address the issue about the stipulation.

21 I believe the issue relates to Count 22, which charges
22 that on or about August 10th of 2016, in Maryland, that
23 Mr. Frazier unlawfully was in possession of two firearms, a
24 Smith & Wesson and a Taurus.

25 One of the elements that the Government has to prove

1 beyond a reasonable doubt in order to prove that charge against
2 Mr. Frazier is that sometime before August 10th of 2016,
3 Mr. Frazier had been convicted of a crime punishable for a term
4 of imprisonment of more than one year.

5 My understanding is that the Government has offered a
6 stipulation to Mr. Frazier which would -- it would be a
7 statement of fact, an agreement, evidence for the jury that
8 would indicate -- and correct me if I'm wrong -- but would
9 simply indicate that at some point before August 10th of 2016,
10 Mr. Frazier had been convicted of a crime punishable by
11 imprisonment for more than one year.

12 Is that correct? Is that the substance of the
13 stipulation that's been offered?

14 **MS. HOFFMAN:** That's correct, Your Honor. The only
15 additional language is that Mr. Frazier's civil rights have not
16 been restored.

17 **THE COURT:** And his civil rights have not been
18 restored. Okay.

19 And first -- and for you, Mr. Davis, that's correct?

20 **MR. DAVIS:** He says that he does not want to
21 stipulate.

22 **THE COURT:** Yes. I just need to finish this. But,
23 Mr. Davis, on his behalf, you're agreeing that that is an
24 accurate summary of what the stipulation would be.

25 **MR. DAVIS:** That is an accurate summary of the

1 stipulation that was offered.

2 **THE COURT:** Okay. Now, in the alternative, if
3 Mr. Frazier, which is certainly his right, is not willing to
4 agree to or sign to that stipulation, then the Government would
5 go forward and prove by certified records two prior felony
6 convictions; that is, crimes punishable by terms of
7 imprisonment for more than one year.

8 And those two offenses are what, Ms. Hoffman?

9 **MS. HOFFMAN:** So one is a conviction for possession
10 with intent to distribute controlled, dangerous substances in
11 Maryland. And the second is a conviction for fourth-degree
12 burglary in Maryland.

13 **THE COURT:** Okay. All right. And I'll go back to
14 Mr. Davis.

15 It's my understanding as his counsel that you've
16 discussed this issue with him; is that correct?

17 **MR. DAVIS:** That is correct, Your Honor.

18 Although the fourth-degree burglary, I don't believe
19 that's a felony in Maryland. I think that's a misdemeanor
20 under Maryland --

21 **MS. HOFFMAN:** It's considered a misdemeanor in
22 Maryland. The statute does say that it is punishable by up to
23 three years in prison.

24 **MR. DAVIS:** It's a statutory misdemeanor, then, which
25 is punishable -- so under federal law, it amounts to --

1 **THE COURT:** Right.

2 **MS. HOFFMAN:** I am happy to -- if the defense wants
3 more time to look at that, I'm happy to give them the time that
4 they need.

5 **THE COURT:** Okay.

6 **MR. DAVIS:** We always like more time.

7 **THE COURT:** Well, all right. Then is Mr. Frazier not
8 ready to put his choice on the record at this point? You want
9 to look into the fourth-degree burglary issue?

10 **MR. DAVIS:** Well, no. I agree that it has -- I hadn't
11 looked at this in a while. I was expecting the drug
12 conviction.

13 But my recollection of the statute -- and I'll
14 double-check it over the break. My recollection is that it's a
15 statutory misdemeanor and the penalty exceeds one year. So for
16 federal purposes, it qualifies as a prior felony conviction.

17 **THE COURT:** Okay. Subject to that, checking over the
18 break, let me ask you, Mr. Frazier: Is it correct, as your
19 lawyer has told me, that you do not want to stipulate to the
20 fact of a prior conviction and you prefer instead that the
21 Government go ahead and prove these prior convictions?

22 **DEFENDANT FRAZIER:** Yes, ma'am.

23 **THE COURT:** Okay. All right. Then subject to
24 anything counsel would find out over the break, we'll go ahead
25 with that on that understanding. And the Government will prove

1 those two prior convictions.

2 I will, unless you don't want me to, but at the time
3 that these records come into evidence, I propose to instruct
4 the jury that one of the elements the Government has to prove
5 as to this charge is the prior conviction. That's the purpose
6 of these records coming in. They may not be considered for any
7 purpose other than in regard to proving an element of that
8 offense in Count 22.

9 **MS. HOFFMAN:** Yes, we agree that's appropriate.

10 Thank you.

11 **THE COURT:** Okay. All right. We'll excuse the
12 gallery.

13 All right. We'll take the short recess.

14 (Recess taken.)

15 **THE COURT:** All right. We're ready?

16 **MS. HOFFMAN:** I have one question for Your Honor. I
17 was just discussing with Mr. Davis the issue of whether the
18 crime of conviction is punishable by more than a year in
19 prison.

20 I proposed I could ask Agent Moore that; and he would
21 respond, "Yes." I don't think Mr. Davis has an objection to
22 that, but we wondered whether it would be a more appropriate
23 subject of judicial notice.

24 **THE COURT:** Mr. Davis.

25 **MR. DAVIS:** If the fourth-degree burglary is a

1 statutory misdemeanor. We double-checked it. It has a
2 three-year maximum penalty. And under Title 18, that qualifies
3 it as a prior felony conviction.

4 And the narcotics conviction is clearly a prior
5 felony.

6 So I think Your Honor can take judicial notice of it
7 or we can ask him. I mean, it's just --

8 **THE COURT:** Why don't I just tell the jury that under
9 the law, both of these offenses do carry a penalty of more than
10 one year in prison.

11 **DEFENDANT FRAZIER:** Yes, ma'am. Yes, ma'am.

12 **THE COURT:** All right.

13 **MS. HOFFMAN:** Thank you.

14 (Jury entered the courtroom at 11:48 a.m.)

15 **THE COURT:** All right. If you'd like to continue,
16 Ms. Hoffman.

17 **BY MS. HOFFMAN:**

18 **Q.** Agent Moore, you testified earlier that you arrested
19 Sydni Frazier on January 25th of 2017.

20 And can you remind us what he was charged with.

21 **A.** He was charged with being a felon in possession of a
22 firearm.

23 **Q.** And what was the date of the offense that led to that
24 arrest?

25 **A.** It was August 10th, 2016.

1 **MS. HOFFMAN:** And would Your Honor like to give an
2 instruction, or should I proceed?

3 **THE COURT:** I think you should proceed, and then I'll
4 explain why.

5 **MS. HOFFMAN:** Thank you.

6 **BY MS. HOFFMAN:**

7 **Q.** Agent Moore, did you obtain certified records of
8 Sydni Frazier's convictions?

9 **A.** Yes, we did.

10 **Q.** Now, I'm going to show you Government's Exhibit CR-6.
11 Can you tell us what we're looking at here.

12 **A.** That's a certified court document.

13 **Q.** And I'm going to zoom in on some places in the document.
14 First, can you read the case number here.

15 **A.** Sure. It's 114233017.

16 **Q.** And can you read the defendant name here.

17 **A.** It's Frazier, comma, Sydni.

18 **Q.** And can you read -- do you see that there's an SID number
19 here?

20 **A.** Yes. It's 002851685.

21 **Q.** And then do you see that there's a date of birth here
22 (indicating)?

23 **A.** It is 012294.

24 **Q.** Do you see that there is an offense described here
25 (indicating)?

1 A. Yes.

2 Q. And what is that offense?

3 A. It is CDS possession with the intent to
4 manufacture/distribute/dispense.

5 Q. And do you see that there's a verdict here?

6 A. Yes.

7 Q. And what does that say?

8 A. The G is for guilty.

9 Q. And what is the date?

10 A. It's 052915.

11 Q. And is that before August 10th of 2016?

12 A. Yes, ma'am.

13 Q. And then I just want to zoom in on the certification here.
14 Would you mind reading this for us.

15 A. Certainly. [Reading]: I, Marilyn Bentley, clerk of the
16 Circuit Court for Baltimore City, hereby certify that this is a
17 true copy from the record in this court. Witness the hand and
18 act of the undersigned this 16th day of June, 2017.

19 And then it's got Marilyn Bentley below.

20 Q. And is this a seal of the Circuit Court for
21 Baltimore City?

22 A. Yes, ma'am.

23 Q. Did you request a certified copy of the arrest photo and
24 fingerprint cards for this conviction?

25 A. Yes, we did.

1 Q. And I'm going to pull up Government's Exhibit CR-7.

2 Can you tell us what we're looking at here.

3 A. That's the arrest photo for Sydni Frazier.

4 Q. And can you read the SID number here (indicating).

5 A. 2851685.

6 Q. And is that the same SID number that we saw on the
7 certified conviction record?

8 A. It is, yes.

9 Q. Can you read the date of birth here.

10 A. It's 01/22/1994.

11 Q. Is that the same date of birth that we saw on the
12 certified conviction?

13 A. Yes, ma'am.

14 Q. I'm going to now pull up Government's Exhibit CR-4.

15 Can you tell us what we're looking at here.

16 A. That's another certified court document.

17 Q. And can you start by reading the defendant name here.

18 A. Frazier, comma, Sydni.

19 Q. And can you read the SID number here.

20 A. It's 002851685.

21 Q. Can you read the date of birth here.

22 A. 012294.

23 Q. And do you see that there's an offense listed here?

24 A. It's burglary, fourth-degree theft.

25 Q. And can you read the verdict and the date for us.

~~MOORE - DIRECT~~

1 **A.** The verdict is a G, for guilty, and the date is 090313.

2 **Q.** And is that before August 10th of 2016?

3 **A.** It is.

4 **Q.** And, I'm sorry. Could you finally read the case number
5 for us.

6 **A.** Case number is 813149010.

7 **Q.** And do we see a similar certification and seal of the
8 Circuit Court for Baltimore City down below?

9 **A.** Yes.

10 **MS. HOFFMAN:** And I have no further questions.

11 **THE COURT:** Okay. Ladies and gentlemen, before we
12 proceed, let me explain to you why this has been introduced and
13 for what purpose you may consider these convictions.

14 One of the charges in this case against Mr. Frazier --
15 it's in Count 22 -- is unlawful possession of two guns, a
16 Smith & Wesson and a Taurus, and some ammunition on or close to
17 August 10th of 2016.

18 There are several things that the Government has to
19 prove beyond a reasonable doubt to establish that offense, and
20 you'll get full instructions on that at the end.

21 One of the elements that the Government has to prove
22 is that Mr. Frazier had been convicted of a crime punishable by
23 imprisonment for more than one year before the date on which he
24 is alleged to have been in possession of these guns and
25 ammunition.

So that was the purpose of proving these two prior convictions. You may only consider them insofar as deciding whether the Government has met its burden of proof on that particular charge, Count 22, the unlawful possession of firearms and ammunition. You may not consider them for any other purpose.

I will instruct you that both of those particular offenses do carry a possible penalty of more than one year in prison, so they do meet that qualification.

Anything else on that issue?

Okay. Then we will proceed -- thank you.

We'll proceed to cross-examination, Ms. Whalen.

MS. WHALEN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. WHALEN:

Q. Agent, Dante Bailey was arrested on May 17th of 2016 in connection with that Continental Arms incident; is that correct?

A. Yes, ma'am.

Q. And to your knowledge, he has been continuously incarcerated since that time?

A. That's correct.

Q. All right. During -- when Mr. Johnson was killed, he was incarcerated; correct?

A. That's correct, yes.

~~MOORE - CROSS~~

1 Q. I'm going to show you what has been marked before as
2 SM-22. And let me show you, first, the first page, Page 1.

3 Can you see -- can you read that.

4 A. Yes.

5 Q. Okay. Does it indicate that it's an Instagram account up
6 at the top (indicating)?

7 A. Yes. It's slightly cut off. If you could slide it down.
8 There. Yep. Yes, it is.

9 Q. Instagram business record?

10 A. Yes.

11 Q. And is this for the registered account
12 troublem5200@gmail.com?

13 A. Yes, ma'am.

14 Q. And Trouble, of course, is William Banks?

15 A. Yes.

16 Q. Now, within SM-22, let me show you what's been marked or
17 what is Page 1130.

18 And, again, is that the Instagram business record?

19 A. Yes.

20 Q. And can you see in the photograph this individual here --

21 A. Yes.

22 Q. -- on the left (indicating)?

23 A. Yes. Yep.

24 Q. And is that Trouble?

25 A. Yes. It appears to be Mr. Banks, yes.

~~MOORE - CROSS~~

1 Q. All right. And he's holding and pointing a handgun; is
2 that correct?

3 A. That's what it appears to be, yes.

4 Q. And are you able, just from looking at that, to determine
5 anything specific about the gun, for instance, make, caliber?

6 A. I couldn't even tell you if it was real, no.

7 Q. And I'm going to show you also what is marked as SM-27.

8 The first document, can -- let me see if I can focus that
9 a little better.

10 Can you see that this is an account for Charmcity Moe
11 (indicating) up on the right-hand corner?

12 A. Yeah. Could you zoom in a little.

13 Q. Sure.

14 A. Thank you. Yes.

15 THE COURT: Could you pull the mic just a little
16 closer to where you are.

17 MS. WHALEN: Sure.

18 THE COURT: Thank you.

19 BY MS. WHALEN:

20 Q. Are you able to read Charmcity Moe?

21 A. Yes, ma'am.

22 Q. And this person on the left is Big Mo; correct?

23 A. I don't know that at all, no.

24 Q. All right. Did you investigate Charmcity Moe?

25 A. Not to my knowledge, no.

1 Q. All right. No question, though, that this is a
2 Charmcity Moe account; correct?

3 A. Correct.

4 Q. And Moe being M-O-E?

5 A. Yes.

6 Q. Let me show you the next document within that account.

7 And we've seen a version of this photograph before in
8 other exhibits. And I'm trying to zoom in a little bit more
9 because the focus doesn't seem to be too good. There we go.

10 Again, Charmcity Moe; right?

11 A. Yes.

12 Q. And do you see this individual here? That's Mr. Bailey;
13 correct?

14 A. Yes.

15 Q. All right. Let me try to put both of these photographs on
16 the screen together.

17 MS. WHALEN: If the Court would allow me to take a
18 minute here to doctor up the exhibits.

19 BY MS. WHALEN:

20 Q. Okay. This is clearly not Dante Bailey (indicating);
21 right?

22 A. Correct.

23 Q. Now, do you remember an individual -- well, strike that.

24 You haven't been in the courtroom for every witness; is
25 that correct?

~~MOORE - CROSS~~

1 **A.** Not for any witness, no.

2 **MS. WHALEN:** All right. Okay. Thank you,
3 Agent Moore.

4 That's all I have.

5 **THE WITNESS:** Yes, ma'am.

6 **THE COURT:** Thank you.

7 Mr. Sardelli.

8 **MR. SARDELLI:** Thank you, Your Honor.

9 CROSS-EXAMINATION

10 **BY MR. SARDELLI:**

11 **Q.** Good day, sir.

12 **A.** Sir.

13 **Q.** Again, as to your testimony today, no calls to or from or
14 texts to or from Mr. Banks; correct?

15 **A.** No, sir.

16 **Q.** Now, I think I asked you in your previous testimony about
17 jail calls and if you had compared them to the originals at the
18 facilities; correct?

19 **A.** Correct.

20 **Q.** Same question for the wire calls: Did you actually go to
21 the providers and compare what you're showing the jury to
22 what's actually at the provider?

23 **A.** The wire calls are maintained on -- they come through the
24 server, two of the providers, but they are maintained on our
25 servers.

~~MOORE - CROSS~~

1 Q. Got you. But have you actually gone to the provider and
2 compared what you have to what the provider has?

3 A. If you're asking have I gone to Kansas City for Sprint or
4 California for -- no, I have not.

5 Q. Have you heard of areas known as WB in Baltimore such as
6 Woodbine or West Baltimore?

7 A. Yes.

8 Q. And you talked about some boxes that are showing up on
9 some of the Instagrams, I believe, that normally would have an
10 emoji or some type of sign there; am I correct?

11 A. That's correct.

12 Q. And those actually show up as boxes so you can't actually
13 see the emoji; correct?

14 A. As provided by Instagram, no, they cannot.

15 Q. Okay. But your understanding is that the originals, that
16 the providers would actually have the actual symbols there;
17 correct?

18 A. That's -- well, that's -- that is the certified documents
19 from the provider, so that's how they come to us.

20 Q. Okay. But your understanding is at the provider, though
21 they would actually have the symbol or the emoji there, that
22 the box is actually substituting for actually what the symbol
23 or emoji is; correct?

24 A. Correct.

25 Q. So if you went to the provider, you would actually be able

~~MOORE - CROSS~~

1 to see the symbol or emoji; correct?

2 **A.** I believe if they're cut and pasted into a different
3 document, then those emojis will appear. It's the format of
4 the code that comes in the -- it's the format of the document
5 as it comes to us.

6 **Q.** I guess what I'm asking you is that that's not exactly how
7 it is at the provider; correct?

8 **A.** No. That is exactly how it is at the provider.

9 **Q.** So you're saying that those emojis don't actually exist?

10 **A.** No, no. When it comes to us from the provider, that's how
11 it looks. What you saw, you can cut -- I believe you can cut
12 and paste the text into a different document, and then those --
13 they will repopulate.

14 **Q.** Okay. But that's not what the jury saw; correct?

15 **A.** Correct.

16 **MR. SARDELLI:** Thank you, Your Honor.

17 I have no further questions.

18 **THE COURT:** Mr. Trainor.

19 **MR. TRAINOR:** Thank you, Your Honor.

20 CROSS-EXAMINATION

21 **BY MR. TRAINOR:**

22 **Q.** Good afternoon again --

23 **A.** Sir.

24 **Q.** -- Agent Moore. How are you?

25 You've been on the stand for a long time.

1 **A.** I have. It's part of the job.

2 **Q.** And while you were on the stand, a lot of recordings have
3 been played from a wiretap from Baltimore County, a wiretap
4 that was conducted by the ATF and certain jail calls as well --

5 **A.** Yes, sir.

6 **Q.** -- correct?

7 And each time you have been shown a transcript and then
8 asked, after the recording is played, whether you heard what
9 was on the transcript; correct?

10 **A.** Yes, sir.

11 **Q.** Now, I just have a couple of questions about these
12 transcripts.

13 Some -- you didn't prepare the transcripts yourself, did
14 you?

15 **A.** I did not prepare them, no. But I reviewed all the
16 jail calls I reviewed.

17 **Q.** All right. Who prepared the jail call transcripts?

18 **A.** They were prepared by an outside company.

19 **Q.** An outside company. But they haven't been certified or
20 anything like that, have they?

21 **A.** I personally reviewed every jail call transcript for its
22 accuracy.

23 **Q.** All right. And in your opinion, they're accurate?

24 **A.** In my -- yes, in my -- what I would determine to be
25 accurate, yes.

~~MOORE - CROSS~~

1 Q. All right. Did you catch any mistakes when you reviewed
2 them?

3 A. Yes.

4 Q. And when you caught the mistakes, you tried to correct
5 them --

6 A. Yes, I did.

7 Q. -- to what you heard?

8 A. Yes.

9 Q. All right. Now, there are also transcripts from the ATF
10 wiretap that were prepared by law enforcement officers other
11 than yourself; correct?

12 A. Correct.

13 Q. And you listened to those recordings --

14 A. Yes.

15 Q. -- and corrected the transcript where you saw any error --

16 A. Yes.

17 Q. -- correct?

18 To conform with what you heard or what you believe you
19 heard; correct?

20 A. That's correct, yes.

21 Q. And you did the same with the Baltimore County transcripts
22 that were prepared by an officer in Baltimore County; correct?

23 A. I did not personally, no.

24 Q. You didn't listen to those?

25 A. No. I'm sorry. I'm saying I did not edit those for

~~MOORE - CROSS~~

1 content.

2 Q. All right. So -- but you did listen to some of those?

3 A. Some of them, yes.

4 Q. All right. You listened to a lot of calls.

5 A. Yes, sir.

6 Q. And they're not always easy to get every word right
7 because some people speak rapidly; there's slang words used;
8 there's a fair amount of profanity and words that probably you
9 wouldn't speak at home?

10 A. That's correct.

11 Q. So really, the most accurate, to be sure of what was said,
12 we really have to go to the recording; correct?

13 A. Correct.

14 Q. All right. I want to ask you about a couple of calls that
15 you testified about, I believe. And one is Jail Call J-59
16 that's located on Page 198 and 199 of the transcript book that
17 was provided by the Government.

18 Now, I'm showing you the second page of that call. And
19 this area around 11:02, can you see that?

20 A. Yes, sir.

21 Q. In the transcript it says -- it's a jail call from
22 Mr. Bailey to -- and the other speaker is shown as "unknown."

23 I thought you corrected that during your direct testimony
24 and said that you could identify the unknown voice.

25 A. I don't recall.

~~MOORE - CROSS~~

1 Q. You don't recall whether you did?

2 A. No.

3 Q. And looking at this transcript, it doesn't refresh your
4 memory as to who the unknown speaker was, does it?

5 A. No. I would have to hear again, sir.

6 Q. All right. Let me ask you about another call that I think
7 you identified, which would be from what I call TT-3, which
8 would be Target Telephone 3 on the ATF wiretap, Call No. 5298.

9 A. Okay.

10 Q. And that's located at -- beginning at Page 189 of the wire
11 section of the calls.

12 Do you recall this call?

13 A. Yes, I do.

14 Q. And I just -- I want to ask you about one part of that.

15 Now, again, you did not prepare this transcript, but you
16 listened to it?

17 A. Yes.

18 Q. All right. And you listened to it with this transcript in
19 front of you; am I right?

20 A. No. I don't know that I would say that. I've listened to
21 the calls and then seen the transcripts, but not always at the
22 same time.

23 Q. All right. And you -- the unknown speaker on this, the
24 U/M would be what, unidentified male or unknown male?

25 A. Unknown male, yes, sir.

~~MOORE - CROSS~~

1 Q. All right. He spoke in sort of a patois or sort of a
2 manner of speaking in which he used certain words that are
3 slang; correct?

4 A. In what portion are you referring to?

5 Q. I'm going to refer to the portion of the call that is near
6 the bottom -- one, two, three -- the third line up from -- or
7 the -- where the U/M in the transcript says [reading]: Oh, all
8 right. Hey, yo, it's hella business up here, son.

9 And that's what you thought you heard; right?

10 A. That's correct.

11 Q. But you would agree with me that if you were mistaken
12 about this word "business" and it said something else, that
13 might change the context of that part of the call; correct?

14 A. Yes.

15 Q. And if you were told and if you heard that word a little
16 differently to be the word, excuse the word, "bitches" instead,
17 that would suggest that the unknown male is saying there's a
18 lot of young ladies up there or up here; correct?

19 A. If you take it with the next thing that the unknown male
20 says where they're walking up to cars, they're coming in
21 groups, that sort of takes it back to business, not necessarily
22 the ladies.

23 Q. Well, unless the word was "bitches" instead of "business";
24 correct?

25 A. Sure.

~~MOORE - CROSS~~

1 Q. So if the word was "bitches" on the recording, you would
2 agree with me that it's probably a discussion about ladies?

3 A. I think the next thing that the unknown male says where he
4 references people walking up to cars sort of takes it back to
5 drug trafficking.

6 Q. So you wouldn't care whether the word was "bitches" or
7 "business"?

8 A. I agree that the word "business" or "bitches" changes
9 the -- what they're speaking about, be it business or a person
10 or people. But I think the bottom, the last portion, the
11 unknown male section, it actually sort of clarifies no matter
12 what, "business" or "bitches."

13 Q. So it can be whatever -- whatever it says, it means what
14 you think it means?

15 A. No, sir. I'm just saying that the context of the call
16 has -- you can't take one line out of context that changes --
17 it would be --

18 Q. But the best evidence of that would be what is on the
19 recording --

20 A. Yes.

21 Q. -- as to what that word was. We should listen to the
22 recording; correct?

23 A. Sure. Of course.

24 Q. All right. Thank you.

25 Now, there were several calls that I think my recollection

1 is you attributed to a Dwight Jenkins; correct?

2 A. Yes, sir.

3 Q. And that was -- that were in relation to Ricardo Johnson?

4 A. Yes, sir.

5 Q. And in each of several calls, it appeared to me that
6 Mr. Jenkins was saying that he had a personal issue with
7 Mr. Ricardo Johnson; correct?

8 A. That's correct, yes.

9 Q. Apparently some sort of traffic incident in which
10 Mr. Johnson called him a clown?

11 A. Yes.

12 Q. And Mr. Jenkins was offended by that.

13 A. That's correct.

14 Q. On the calls, he was calling around to people he knew
15 complaining about how he had been insulted; correct?

16 A. Yes, that's correct.

17 Q. And it was always Mr. Jenkins who was insulted by him;
18 correct? He's the one complaining that he was personally
19 insulted and somewhat upset by that and that he was going to
20 beat the guy up; correct?

21 A. Yes, that's correct.

22 Q. And that seems to be the theme of that.

23 Now, you have heard Mr. Lockley's voice on recordings;
24 correct?

25 A. Yes, sir.

1 Q. And you have testified that you are able to identify his
2 voice or, in your opinion, you can?

3 A. Yes.

4 Q. You listened to a lot of calls in which you feel that he
5 was involved.

6 A. Yes, sir.

7 Q. Would you agree with me that there seems to be a pattern
8 in his speech in which he often says the term "say no more"?

9 A. Yes; although a number of people use that phrase.

10 Q. Yeah. It seems to be common that it's just one of -- it's
11 a phrase that is -- that appears in many calls; correct?

12 A. Correct.

13 Q. Including Mr. Lockley's call.

14 A. Yes.

15 Q. All right.

16 MR. TRAINOR: No further questions.

17 Thank you.

18 THE COURT: Thank you, Mr. Trainor.

19 Ms. Amato.

20 CROSS-EXAMINATION

21 BY MS. AMATO:

22 Q. Good afternoon.

23 A. Ma'am.

24 Q. This morning we heard some jail calls which -- in which
25 there was discussion about the potential paying of the bond for

~~MOORE - CROSS~~

1 Mr. Frazier. Remember those phone calls?

2 A. Yes.

3 Q. All right. And in your work as a Special Agent in this
4 case, did you do any investigation to determine whether or not
5 the bail had or actually the bond had been paid?

6 A. No.

7 Q. Okay. So you did no investigation, so you don't know one
8 way or the other whether it was paid or not paid?

9 A. No, I don't.

10 Q. Okay. All right. So if it was paid, you have no idea who
11 actually paid it?

12 A. No.

13 Q. Okay. And if it wasn't paid, wasn't paid?

14 A. Correct.

15 MS. AMATO: All right. Thank you, Your Honor.

16 THE COURT: All right. Thank you.

17 Mr. Hazlehurst.

18 MR. HAZLEHURST: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. HAZLEHURST:

21 Q. Agent Moore.

22 A. Sir.

23 Q. We have to stop meeting like this.

24 So you testified at some length about a number of
25 exhibits; correct?

1 A. Yes.

2 Q. And I want to ask you some specific questions about
3 specific exhibits, if I can.

4 So, first of all -- and it seems like it was ages ago, but
5 I believe it was only on Tuesday -- you were asked about
6 Government's Exhibit CELL-5-A.

7 Do you recall that?

8 A. Yes.

9 Q. And that is an excerpt taken from a phone that was
10 recovered at 2100 Tucker Lane on August 10th, 2016; correct?

11 A. Yes, that's correct.

12 Q. I'm going to show you what is the first page of that
13 exhibit.

14 Can you see that?

15 A. Yes.

16 Q. Do you recognize that as Exhibit CELL-5-A?

17 A. Yes, sir.

18 Q. And, again, we've had -- I think we've had this
19 conversation before, and it may have been in regard to other
20 exhibits. But, again, you didn't prepare this excerpt;
21 correct?

22 A. No, sir.

23 Q. But someone who is a Government agent prepared this
24 excerpt?

25 A. Yes, sir.

1 Q. And it was prepared in preparation for litigation in this
2 case; correct?

3 A. Correct.

4 Q. And Government counsel has taken great pains to say, Well,
5 not every call or text is on these excerpts; correct?

6 A. That's correct.

7 Q. But, again, these excerpts were prepared to support the
8 Government's case; correct?

9 A. Yes.

10 Q. And if something did support the Government's case, in the
11 Government's view, it would be in this excerpt; correct?

12 A. Not necessarily. Those were selected excerpts, not
13 everything that would have supported our case.

14 Q. So if something -- you would leave something out that
15 supported your case?

16 A. As you saw with some of the text messages, for example,
17 they become repetitive.

18 Q. Yes.

19 A. So --

20 Q. I agree. That's true.

21 A. Yes.

22 Q. But, again, what you're trying to do is provide evidence
23 to try and help the jury and convince them that your case is
24 correct.

25 A. Yes.

~~MOORE - CROSS~~

1 Q. All right. Now, in particular, there was reference to a
2 text, series of text messages, which I'm going to show you on
3 Page 11 of that exhibit. And I've highlighted them. It's
4 Line 116 and 115.

5 Do you see that?

6 A. Yes, sir.

7 Q. Now, again, the way this is drawn up -- and, again, you
8 didn't prepare it, but you reviewed it; correct?

9 A. Yes.

10 Q. -- is the number under "recipient" is the telephone number
11 that the text was sent to; correct?

12 A. Correct.

13 Q. So on Line 116 and Line 115, the telephone number that is
14 noted is 1 (667) 228-4194; correct?

15 A. Yes, sir.

16 Q. And that's a number that you have associated with
17 Mr. Shakeen Davis; correct?

18 A. Yes.

19 Q. Now, again, it's a telephone number. You can't -- there's
20 no voice that goes along with that text message; correct?

21 A. That is correct.

22 Q. All right. And in this case you're not even alleging that
23 that number that you've associated with Mr. Davis is the sender
24 of that text message; correct?

25 A. It's the recipient, yes.

~~MOORE - CROSS~~

1 Q. The recipient.

2 So, in other words, it was sent from the phone that was
3 recovered from Mr. Frazier.

4 A. Correct.

5 Q. And the two text messages, the first one appears to be --
6 though I think this is in obviously reverse numerical order --
7 it says at -- on August 5th, 2016, at 10:11 p.m. [reading]:
8 Grab three black Jimmy Macks.

9 Correct?

10 A. Yes.

11 Q. And then immediately succeeding that on the same date,
12 11 seconds afterwards, it says [reading]: Two, including you.

13 Correct?

14 A. Yes.

15 Q. But there is no response at any time from that cell phone
16 number that you've associated with Mr. Davis, is there?

17 A. Not to that exchange, no.

18 Q. So, in essence, we're talking about text message, silence;
19 right?

20 A. With regards to that exchange. If you look up to 118,
21 there is a response from 4194.

22 Q. But as to that particular exchange, those particular
23 text messages, no response?

24 A. That's correct, sir. Yes.

25 Q. Now, you were also asked to refer to -- I'm going to show

~~MOORE - CROSS~~

1 you what's numbered as Page 14 of that exhibit. And tell me
2 when you can see that and it's not -- doesn't make you feel
3 like you have blurry vision.

4 **A.** That's good.

5 **Q.** Okay. This is a phone log for August 10th, 2016; correct?

6 **A.** Yes.

7 **Q.** Okay. I've highlighted Line Number 90.

8 Do you see that?

9 **A.** Yes, sir.

10 **Q.** And it has as the date August 10th, 2016, at 3:07 a.m.;
11 correct?

12 **A.** Yes.

13 **Q.** The duration of the call is 11 seconds; correct?

14 **A.** Yes, sir.

15 **Q.** And that's the only call to that number at that -- on that
16 sheet that you can see; correct?

17 **A.** Yes. That appears; correct, yes.

18 **Q.** Okay. And you have no way of knowing, and no knowledge as
19 to whether that telephone call to that number was answered, do
20 you?

21 **A.** Well, the duration indicates that it was answered for
22 11 seconds.

23 **Q.** Well, what I'm saying is you don't know if anybody picked
24 up and talked, do you?

25 **A.** I do not, no.

1 Q. Okay. You don't know if someone picked up the phone and
2 immediately then hung up after they picked up the phone, do
3 you?

4 A. I -- if it was -- if it had never been answered, I would
5 expect a 0:00 duration as in the first call up top which was --
6 which denotes a missed call.

7 Q. My question was: If somebody answered the phone, you
8 don't know if they ever spoke; correct?

9 A. No, of course not.

10 Q. Okay. They could have just hung up the phone as soon as
11 they clicked on the call; correct?

12 A. They could have, yes.

13 Q. Okay. Now, you were also asked about numerous jail calls;
14 correct?

15 A. Yes.

16 Q. Okay. Now, I want to make sure I understand this.

17 But, in essence, when somebody is in jail, they can only
18 call out; correct?

19 A. Correct.

20 Q. Okay. And the Government has access to all of those
21 calls; correct?

22 A. Correct.

23 Q. In other words, they are always recorded?

24 A. Yes.

25 Q. Without fail?

~~MOORE - CROSS~~

1 A. I -- I don't run the system, so I couldn't say without
2 fail. But in general, they should all be recorded, yes.

3 Q. So the system is set up to record every outgoing call from
4 a detention center?

5 A. Yes.

6 Q. So every detainee who makes a call, if the system is
7 working correctly, that's going to be recorded?

8 A. Yes.

9 Q. And you or government agents are going to have access to
10 it?

11 A. If they used the proper SID number and used their own,
12 yes, we will be able to find their calls, yes.

13 Q. But you've testified previously, I think, that sometimes
14 people -- and it may not have been you. A lot of witnesses and
15 I'm getting older, so I forget things -- but that sometimes
16 people will use different names, but you review the calls to
17 see if you can recognize the voice; correct?

18 A. Correct.

19 Q. Okay. So you can determine whether or not, even if
20 somebody uses an incorrect name, it's the call from that
21 person; correct?

22 A. Correct.

23 Q. Okay. And, again, only the detainee can call out. Nobody
24 can call in; correct?

25 A. That's correct, yes.

1 Q. Okay. All right. Now, in particular, you were asked to
2 listen to Call J-2; do you remember that?

3 A. Yes.

4 Q. Okay. And there was an exchange in that call, and I
5 believe the Government played the recording beginning at 5:15.

6 Do you see that on the transcript?

7 A. Yes.

8 Q. Okay. And in that call, you identified one of the people
9 as Shakeen Davis; correct?

10 A. Correct.

11 Q. And that is referred to by the name Davis with a colon,
12 and then there's a particular part that I've highlighted there
13 (indicating); correct?

14 A. Yes, sir.

15 Q. Okay. And you were asked: Did you hear?

16 And you read that particular portion, did you not?

17 A. Yes.

18 Q. Okay. And it seems to be a reference to a collection for
19 bail money; correct?

20 A. That's correct.

21 Q. And it is Mr. Frazier who's calling out; correct?

22 A. Uh-huh.

23 Q. And the person you identified as Mr. Davis refers to two
24 people; correct?

25 A. Yes.

~~MOORE - CROSS~~

1 Q. And says [reading]: I think they was getting, collecting
2 bail money.

3 Correct?

4 A. Correct.

5 Q. He doesn't say, "I'm collecting bail money," does he?

6 A. No.

7 Q. Doesn't say, "We are collecting bail money," does he?

8 A. No.

9 Q. He says "they"?

10 A. Yes.

11 Q. Now, you also were asked to refer to jail call 4-T. And
12 in that call I'm showing you -- can you see that?

13 A. Yes.

14 Q. In that call, again, same thing, call made by someone you
15 believe to be Sydni Frazier; right?

16 A. Yes.

17 Q. And, again, you've identified someone you believe to be
18 Shakeen Davis on that call?

19 A. Correct.

20 Q. All right. And at the bottom of the page, again, there is
21 a discussion of bail; correct?

22 A. Yes.

23 Q. And at that point the person you identified as Mr. Davis,
24 not referring to any other person, says [reading]: All right,
25 so all we need is \$3,500 and you, all right.

1 Correct?

2 A. Correct.

3 Q. No reference to anybody else who's involved in this case,
4 is there?

5 A. No.

6 Q. Now, you were also asked questions in regard to jail call
7 3-T. I'm going to show you the first page of that exhibit.

8 Do you recognize that?

9 A. Yes.

10 Q. Okay. And there was a particular passage on Page 4 of
11 that exhibit where a person you identified as Sydni Frazier
12 made a statement in regard -- or made a statement to another
13 person; correct?

14 A. Correct.

15 Q. And, again, Frazier is the only person who could have
16 initiated this call because he's the -- he's detained?

17 A. Correct.

18 Q. And he's calling out?

19 A. Yes.

20 Q. And the person he's speaking to is not someone you
21 identified as Shakeen Davis; correct?

22 A. Not at that point in the conversation, no.

23 Q. Okay. And the person he is speaking to is someone who is
24 known as Mugs; correct?

25 A. Correct.

1 Q. And Mr. Davis is not a party to this particular
2 conversation, is he?

3 A. That exchange you've highlighted?

4 Q. Yes.

5 A. No, I don't believe so, no.

6 Q. Okay. And Mr. Frazier makes reference to someone he calls
7 Creams; correct?

8 A. Yes.

9 Q. Someone he calls Ed; correct?

10 A. Yes. Yep.

11 Q. And obviously, speaking to this person you've identified
12 as Mugs?

13 A. Correct.

14 Q. But, again, neither Mr. Davis nor this person known as Ed
15 is party to that particular piece of that conversation;
16 correct?

17 A. Correct.

18 Q. Now, there were two other calls I want to ask you about.
19 One is labeled J-69-T. I'm going to show you the first page of
20 that. Tell me if you can see that.

21 A. Yes.

22 Q. Okay. It's a little blurry to me. You must have better
23 eyes than I do.

24 And do you recognize that as J-69-T?

25 A. Yes, sir.

~~MOORE - CROSS~~

1 Q. Okay. And in that particular call, there is reference to
2 Mr. Frazier, again, who is the person who's called out;
3 correct?

4 A. Yes.

5 Q. And in this case he called actually someone else. Didn't
6 call someone that you identified as Mr. Davis initially. He
7 called someone else; correct?

8 A. He called Ariel Johnson.

9 Q. And so the person you identified in this as Mr. Davis
10 comes into the conversation because you believe he called
11 Ms. Johnson; correct?

12 A. Correct.

13 Q. And then they're connected in sort of a three-way
14 conversation?

15 A. Yes.

16 Q. And there is reference to Mr. Frazier discussing a
17 \$1,000 -- appears to be a debt; correct?

18 A. Yes.

19 Q. And he asked Mr. -- the person you've identified as
20 Mr. Davis to try and collect that debt; correct?

21 A. Yes.

22 Q. Okay. Now, in Call J-70-T, and tell me if you recognize
23 that exhibit.

24 A. Yes, sir.

25 Q. This is a call alleged to be from Mr. Frazier to

1 Ms. Johnson; correct?

2 A. Yes.

3 Q. And he then speaks about that same particular debt;
4 correct?

5 A. Correct.

6 Q. And talks about Ms. Johnson trying to follow up and make
7 sure the debt is collected; correct?

8 A. Yes.

9 Q. You have no knowledge of whether anyone ever sought to
10 collect a debt on Mr. Frazier's behalf, do you?

11 A. No, sir.

12 Q. You have no evidence that anyone, including Mr. Davis,
13 ever did anything in regard to that debt, do you?

14 A. No.

15 Q. Now, at this point we're talkin' about -- this was 2017;
16 correct?

17 A. Yes.

18 Q. So the investigation is pretty well advanced, isn't it?

19 A. Correct.

20 Q. There's a lot of surveillance going on; right?

21 A. Yes.

22 Q. Pretty heavy coverage, ATF, Baltimore City Police; right?

23 A. Well, at that point it had actually started to -- we had
24 finished like the main portion of the case. So at that point
25 we were more tying up some loose ends that we had gotten to.

~~MOORE - CROSS~~

1 It was less a full-bore event.

2 Q. But there was still scrutiny of Mr. Davis; correct?

3 A. We were looking for Mr. Davis. Yes.

4 Q. And no evidence that Mr. Davis ever collected a debt on
5 Mr. Frazier's behalf, was there?

6 A. No.

7 Q. Okay. Finally, there was reference to Exhibit CELL-7-A.
8 Tell me if you see that on your screen.

9 A. Yes, sir.

10 Q. Okay. And you recognize that to be CELL-7-A?

11 A. Yes.

12 Q. And in particular, your attention was called to selected
13 contact; correct?

14 A. Correct.

15 Q. And the name that was highlighted was Dinero; correct?

16 A. Yes, sir.

17 Q. And you identified that as someone, a name that you
18 connected with Mr. Davis; correct?

19 A. Correct.

20 Q. Now, again -- and I hate to repeat myself, but I think
21 it's an important point -- when you or another government agent
22 is looking at these particular cell phones, you're going
23 through it to determine if there are messages, text messages
24 that are supportive of the Government's case; correct?

25 A. Correct.

~~MOORE - CROSS~~

1 Q. And so you've gone through or someone else went through
2 this cell phone to look to see if there are any cell phone
3 messages that did that; correct?

4 A. Yes.

5 Q. And in particular -- because, again, there's this
6 "Selected Contact," Dinero, the review would have included
7 looking for any text message that mentioned it was to or from
8 Dinero; correct?

9 A. No. That's not to say that there weren't any, but that --
10 if there was general conversation, that may not have been
11 included.

12 Q. Well, I guess my point is, again, you've got a telephone
13 number that matches this particular name in the contact list;
14 correct?

15 A. Correct.

16 Q. And a review was conducted of this cell phone; correct?

17 A. Correct.

18 Q. And there were no text messages that were identified that
19 are on this excerpt that were to or from that particular
20 number?

21 A. There's no -- there's no back-and-forth on this excerpt.
22 Yes, that's correct.

23 MR. HAZLEHURST: No further questions, Your Honor.

24 Thank you.

25 THE COURT: All right. Thank you.

~~MOORE - CROSS~~

1 Mr. Davis.

2 **MR. DAVIS:** Yes. Thank you, Your Honor.

3 CROSS-EXAMINATION

4 **BY MR. DAVIS:**

5 **Q.** Good afternoon, Agent Moore.

6 **A.** Sir.

7 **MR. DAVIS:** Courtroom Clerk, do you want me to do it,
8 or do you want to do it for me?

9 **THE CLERK:** I'll do it for you. No problem.

10 **MR. DAVIS:** Thank you.

11 **BY MR. DAVIS:**

12 **Q.** Directing your attention to SM-20, Page 15, this is the
13 photograph that you identified Sydni Frazier in. Let me shrink
14 it down a little because we're not getting everything --

15 **THE COURT:** I'm sorry. I'm having trouble hearing
16 you.

17 **BY MR. DAVIS:**

18 **Q.** I show you what's been marked and introduced into evidence
19 SM-20, Page 15. That's a group photograph.

20 Do you recall seeing that a few moments ago?

21 **A.** Yes, sir.

22 **Q.** Now, directing your attention to the far right, the man on
23 the far right, would you agree that man is light-skinned?

24 **A.** On the far -- we're talking the green tie-dye shirt.

25 **Q.** Yes.

1 A. It's hard to tell with a photograph like this.

2 Q. Would you agree that there are no tattoos on his arm?

3 A. It doesn't appear on that arm, no.

4 Q. Would you agree that he has a receding hairline?

5 A. He's got short hair for sure.

6 Q. And would you agree that he has somewhat of a pot belly?

7 A. Yes. His stomach is sticking out a little bit, yes.

8 Q. Now, how old do you think that man would be?

9 A. I couldn't tell you.

10 Q. Did anyone identify that as Sydni Frazier or did you just
11 draw that conclusion yourself?

12 A. It appeared to me that it was Sydni Frazier, yes.

13 Q. YT-5 was a short YouTube clip.

14 Do you recall seeing that?

15 A. Yes, sir.

16 Q. And you identified a voice as being Sydni Frazier's voice;
17 correct?

18 A. Yes.

19 Q. And you identified a facial profile; correct?

20 A. Correct, sir.

21 Q. When you say "profile," you're talking about the general
22 outline of the face; correct?

23 A. Yes.

24 Q. You couldn't make out the facial features; correct?

25 A. No. You could not get a full frontal shot, no.

1 Q. That YT-5 YouTube video, could you make out when that was
2 produced?

3 A. I don't recall when it was produced, no.

4 Q. So that could have been done anytime, really, back 2013,
5 2012, 2015?

6 A. I'm sure that it has a timestamp and a date on it, but I'm
7 not -- I can't recall what it is at this moment, no.

8 Q. Now, the photograph of the gentleman shooting craps, do
9 you recall that?

10 A. Yes.

11 Q. Now, you identified Sydni Frazier as the individual in the
12 white T-shirt; correct?

13 A. Yes.

14 Q. Does Mr. Frazier appear to be light-skinned or
15 dark-skinned?

16 A. In this photo?

17 Q. Yes.

18 A. It appears to be darker-skinned.

19 Q. And do you know when that photograph was taken?

20 A. I do not know.

21 Q. And you've worked up in that neighborhood for a few years
22 now; correct?

23 A. Yes; on and off.

24 Q. And this is not an uncommon experience to see people
25 shooting dice on a nice afternoon; would you agree?

~~MOORE - CROSS~~

1 A. No.

2 Q. I'm going to show you what's been marked D-25-C and F-24.
3 Actually marked and moved into evidence.

4 A. Yes, sir.

5 Q. This would be the Taurus box you testified about
6 yesterday; correct?

7 A. Correct, sir.

8 Q. And you matched the serial number of this Taurus box to
9 this Taurus firearm that was recovered on 8/10; correct?

10 A. Yes, sir.

11 Q. Now, you did not seize this, did you?

12 A. No.

13 Q. Now, opening up the box, putting the gun in, there's
14 something missing inside the box. That would probably be an
15 inner cardboard casing or something?

16 A. I couldn't tell you how Taurus ships. Some guns ship with
17 safety features, with manuals, things like that, extra
18 magazines.

19 Q. But they don't ship like this, though, do they --

20 A. No.

21 Q. -- just thrown in.

22 So there's something missing out of the box; correct?

23 A. It would appear so, yes.

24 Q. And on F-24, what's missing from this gun is the magazine;
25 correct?

1 A. Yes.

2 Q. The magazine which you push up in there after you load the
3 projectiles into the gun; correct?

4 A. Yes, sir.

5 Q. Now, you identified some photographs from the search of
6 961 Bennett Place yesterday.

7 A. Just one for me, I believe.

8 Q. The one that had the box in it?

9 A. Yes.

10 Q. And that would be search warrant 12-C, the photograph;
11 correct?

12 A. That's correct.

13 Q. And, again, you didn't seize this?

14 A. No, sir.

15 Q. And this is the only photograph of that box that you've
16 seen; correct?

17 A. I -- I think I just misspoke. There was two photos. One
18 was a far-away, slightly pulled-out version, pulled-out view,
19 and then this up-close view.

20 Q. But neither of those have a serial number in them, do
21 they?

22 A. Not from this angle, no.

23 Q. Now, did you ever see the photograph of the box of
24 ammunition that was recovered from 961 Bennett Place?

25 A. I don't recall.

1 Q. If I showed it to you, would that refresh your
2 recollection?

3 A. Sure.

4 Q. Have you ever seen that photograph,
5 Government's Exhibit SW-12-B?

6 A. I don't recall if I have or not, no.

7 Q. Now, in that photograph, on that box there is a serial
8 number that's visible; correct?

9 A. Yes. It's an item number.

10 Q. Now, the box that you identified yesterday, where was that
11 retrieved from yesterday?

12 A. It was the Baltimore City Police Department's evidence
13 control unit.

14 Q. So it wasn't with ATF's evidence room?

15 A. No, not --

16 Q. It was with the Baltimore City?

17 A. That's correct, yes.

18 Q. Was it under Mr. Frazier's name, or is it under another
19 case's name?

20 A. I -- I believe it was under another case.

21 Q. Now, that -- this Taurus weapon was recovered on
22 August 10th of 2016; correct?

23 A. Yes.

24 Q. And this box was seized 15 months later, on November 16th
25 of 2017, according to your information?

~~MOORE - REDIRECT~~

1 **A.** I believe so, yes.

2 **Q.** And Mr. Frazier was arrested on January 25th of 2017.

3 **A.** Correct.

4 **Q.** Now, did you ever run the serial number on this weapon?

5 **A.** It would have been run by Baltimore City when it was
6 recovered.

7 **Q.** So you have no information about that, where the weapon
8 was purchased, by whom, or anything of that nature?

9 **A.** I personally do not, no.

10 **Q.** And the text messages that you went through earlier today,
11 the vast majority of those were for gram-quantity sales of
12 drugs; correct?

13 **A.** Yes.

14 **Q.** And they involved people other than any of the individuals
15 that are in this courtroom other than Mr. Frazier; correct?

16 **A.** Many of them, yes.

17 **MR. DAVIS:** I have no further questions. Thank you.

18 **THE COURT:** Thank you, Mr. Davis.

19 Any redirect?

20 **MS. HOFFMAN:** Just very briefly.

21 REDIRECT EXAMINATION

22 **BY MS. HOFFMAN:**

23 **Q.** Agent Moore, you were asked some questions about a call,
24 J-70. It was a three-way call in which -- it was from Frazier
25 to Ariel Johnson, and then Shakeen Davis joined the call.

~~MOORE - REDIRECT~~

1 **A.** Yes.

2 **Q.** As of January 26th of 2017, as of the day of that call,
3 had a warrant been issued for Shakeen Davis's arrest --

4 **MR. HAZLEHURST:** Objection.

5 **THE COURT:** Come up to the bench.

6 (Bench conference on the record:

7 **MR. HAZLEHURST:** Your Honor, my objection is to the
8 fact that, one, this is not something that was covered on my
9 cross-examination. It was a nonresponsive answer to my
10 question of whether Mr. Davis was still being investigated.

11 And he responded at that point, Well, we were looking
12 for him.

13 So that was not something that was --

14 **THE COURT:** Where were you going with this?

15 **MS. HOFFMAN:** So on cross, Mr. Hazlehurst suggested
16 that there had been no follow-up investigation to determine
17 whether Mr. Davis had actually collected the drug -- or, I'm
18 sorry, the debt that Sydni Frazier was asking him to collect.

19 And Mr. -- and Agent Moore was asked, Well, didn't you
20 have a whole team of investigators and doing surveillance? And
21 couldn't you have investigated this?

22 And I think the reason why -- Mr. Davis was actually a
23 fugitive at that point, and this is going to come up later in
24 the case, too. He was ultimately arrested a short time later
25 by the U.S. Marshals, one of whom is going to testify about

~~MOORE - REDIRECT~~

1 apprehending him and recovering a gun from him while he was a
2 fugitive.

3 So I simply intended to ask: Had an arrest warrant
4 been issued? Had he been apprehended? And was he arrested a
5 short time later as a way of explaining why they were not
6 able -- they hadn't found him, so they weren't able to
7 investigate whether the drug debt was collected?

8 **THE COURT:** Well, I agree with Mr. Hazlehurst that the
9 answer from the witness was not entirely responsive. And I
10 don't see -- it may or may not come in through the marshal
11 later on. I don't know. We'll deal with that later if there
12 is.

13 But I don't think getting into the notion of Mr. Davis
14 being a fugitive is fair response to Mr. Hazlehurst's cross.

15 **MS. HOFFMAN:** Okay.

16 **MR. HAZLEHURST:** And I would just ask that the jury be
17 asked to disregard the question. I would say it's not
18 evidence.

19 **THE COURT:** Sure.)

20 (Bench conference concluded.)

21 **THE COURT:** All right. We're going to move on.

22 The jury should just disregard the last question.

23 Anything else?

24 **BY MS. HOFFMAN:**

25 **Q.** I just have one more question for you, Agent Moore.

~~MOORE - REDIRECT~~

1 You were asked by Mr. Davis whether the magazine for the
2 gun that you just looked at, the Taurus gun, was missing.

3 Was there a magazine that was recovered along with that
4 gun?

5 **A.** Yes.

6 **Q.** And is there a reason why it's not included with the gun
7 here today?

8 **A.** It's courtroom security procedures. We're not allowed to
9 have magazines, ammunition, and firearms in the same place.

10 **MS. HOFFMAN:** Thank you.

11 No further questions.

12 **THE COURT:** Anything else?

13 (No response.)

14 **THE COURT:** Thank you. You can step down.

15 Does the Government have someone else to call?

16 **MS. HOFFMAN:** Yes. We have one short witness.

17 Dr. Jack Titus.

18 **THE COURT:** Okay.

19 JACK TITUS, M.D., GOVERNMENT'S WITNESS, SWORN.

20 **THE CLERK:** Please be seated.

21 **THE WITNESS:** Thank you.

22 **THE CLERK:** Please speak directly into the microphone.
23 State and spell your full name for the record, please.

24 **THE WITNESS:** My name is Dr. Jack Titus, T-I-T-U-S.

25 **THE CLERK:** Thank you.

~~TITUS, M.D. - DIRECT ON VOIR DIRE~~

DIRECT EXAMINATION ON VOIR DIRE

BY MS. HOFFMAN:

Q. Good afternoon, Dr. Titus.

A. Good afternoon.

Q. Can you tell us where you work.

A. I work for the Office of the Chief Medical Examiner for the State of Maryland in Baltimore.

Q. And what do you do there?

A. I'm an Assistant Medical Examiner for the State.

Q. How long have you been an Assistant Medical Examiner?

A. For 20 years.

Q. And do you have training in forensic pathology?

A. Yes.

Q. In your time with the Medical Examiner's Office, how many autopsies have you conducted?

A. Over 5,000.

Q. Have you ever been qualified as an expert in the field of forensic pathology?

A. Yes.

Q. Approximately how many times?

A. At least over 70 or more.

MS. HOFFMAN: Your Honor, at this time we offer Dr. Titus as an expert in forensic pathology.

MR. DAVIS: No objection.

THE COURT: All right. Based on the witness's

TITUS, M.D. - DIRECT

1 education, training, and experience, I will find him qualified
2 to give opinion testimony in the field of forensic pathology.

3 DIRECT EXAMINATION

4 **BY MS. HOFFMAN:**

5 **Q.** Dr. Titus, directing your attention to August 10th of
6 2016, did you conduct an autopsy of an individual named
7 Ricardo Johnson on that day?

8 **A.** Yes.

9 **Q.** And did you write a report based on your findings?

10 **A.** Yes.

11 **Q.** And I'm going to approach and show you for identification
12 only Government's Exhibit AUT-5 (handing).

13 Can you tell us what you have there.

14 **A.** Yes. This is the autopsy report on Mr. Johnson that I
15 prepared. I'm just making sure it's all here.

16 As well as the attached toxicology report, and there are
17 also some photos that were taken during the autopsy.

18 **Q.** In the course of your autopsy of Ricardo Johnson, did you
19 find evidence of injury?

20 **A.** Yes.

21 **Q.** And can you describe the nature of his injuries.

22 **A.** Yes. He had 26 gunshot wounds to him. There were three
23 to his face and neck.

24 There were 12 to his torso.

25 And 11 to his extremities.

TITUS, M.D. - DIRECT

1 The ones to his face, neck, and extremities hit soft
2 tissue, muscle, and some hit bone.

3 Those to his torso went through both his lungs, his heart,
4 his liver, his stomach, the small intestine and the right
5 kidney, which caused internal bleeding.

6 And during the course of the examination, 15 bullets were
7 recovered from those wounds, and there was also an old bullet
8 in one of his legs from a previous wound.

9 **Q.** How were you able to tell that the one bullet was an old
10 bullet?

11 **A.** Basically, when a bullet is old, it gets encased in scar
12 tissue. Just like if you cut yourself or ever hurt yourself,
13 you get a scar and the scar is always there, well, that
14 bullet -- the old bullet was encased in tissue, which meant it
15 had been there for a while.

16 **Q.** Were pictures taken during the course of the autopsy to
17 document what you found?

18 **A.** Yes.

19 **Q.** I'm going to show you Government's Exhibit AUT-5-G.

20 Can you tell us what we're looking at here.

21 **THE CLERK:** I'm not seeing anything.

22 **THE WITNESS:** Nothing.

23 **MS. HOFFMAN:** Okay.

24 **BY MS. HOFFMAN:**

25 **Q.** Sorry about that.

TITUS, M.D. - DIRECT

1 Is it appearing on your screen now?

2 **A.** Yes, it is. This is what we call the identification
3 photo, which is the ID photo of the face of the individual.
4 And it's also showing some of the wounds that the individual
5 sustained, some of the gunshot wounds that you could see to his
6 face and to his neck and to his chest.

7 **Q.** And I'm going to show you Government's Exhibit AUT-5-N.

8 Can you tell us what we're looking at here.

9 **A.** These are several of the gunshot wounds to the back of the
10 decedent, and those are the ones that went through his torso
11 and hit all the organs that I described before.

12 **Q.** And I'm going to show you Government's Exhibit AUT-5-O.

13 Can you tell us what we're looking at here.

14 **A.** Yes. This is more injuries, basically gunshot wounds to
15 the buttock and left leg of the individual. Plus you can see
16 some of the gunshot wounds to the back as well that are there.

17 **Q.** Now, you mentioned that you recovered 15 bullets and an
18 old bullet during the course of the autopsy.

19 Did you recover any other evidence?

20 **A.** Yes. His clothing was taken, and he was -- also had
21 bindings on his ankles and on his wrists that were recovered.
22 And we also did swabs of the hands, took fingernail clippings,
23 as well as the nail clippers, and fingerprints were also taken.

24 **Q.** And you mentioned some bindings.

25 I'm going to show you Government's Exhibit AUT-5-F.

TITUS, M.D. - DIRECT

1 Can you tell us what we're looking at here.

2 **A.** Yes. These are the bindings that were on the decedent.
3 The upper one, I believe, is from the ankles. And the lower
4 one in the middle and to the top-hand part of the screen are
5 from the wrists.

6 **Q.** And you mentioned that there were swabs taken and
7 finger -- fingernail clippings taken. And were those submitted
8 to the BPD laboratory for testing?

9 **A.** Yes, they were.

10 **Q.** Were you able -- you mentioned that there were 26 gunshot
11 wounds. Were you able to determine what order the gunshot
12 wounds were sustained in?

13 **A.** No.

14 **Q.** Can you say -- were you able to determine whether
15 Mr. Johnson was alive or dead when he sustained those gunshot
16 wounds?

17 **A.** Well, he was alive because there was bleeding associated
18 with all those wounds.

19 **Q.** And can you explain a little bit more what that means.
20 How do you know that someone's alive if there's bleeding
21 associated?

22 **A.** Well, first of all, the organs that were injured
23 internally, there was internal blood within the cavities from
24 those organs bleeding. And, also, when we tracked the wound
25 paths, we saw hemorrhage or bleeding into the wound track,

~~TITUS, M.D. - CROSS~~

1 which meant there was blood vessels pumping at that time when
2 they were injured.

3 Q. And was there bleeding associated with all 26 of the
4 gunshot wounds?

5 A. Yes.

6 Q. Have you formed an opinion as to the cause of death,
7 Dr. Titus?

8 A. Yes.

9 Q. What was it?

10 A. Multiple gunshot wounds.

11 Q. And have you formed an opinion as to the manner of death?

12 A. Yes.

13 Q. And what was it?

14 A. Homicide.

15 MS. HOFFMAN: Thank you very much. I don't have any
16 more questions.

17 MS. WHALEN: No questions, Your Honor.

18 MR. DAVIS: I just have one question, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. DAVIS:

21 Q. Dr. Titus --

22 A. Yes.

23 Q. -- you said you took fingernail clippings.

24 A. That's correct.

25 Q. Is that done so that if, for example, someone were in a

~~TITUS, M.D. - CROSS~~

1 scuffle, they might have something under their fingernails?

2 **A.** Yes, sir.

3 **MR. DAVIS:** I have no further questions.

4 **THE COURT:** Anything else?

5 **MS. HOFFMAN:** No redirect. Thank you.

6 **THE COURT:** Thank you very much, sir.

7 **THE WITNESS:** Thank you.

8 **THE COURT:** You're excused.

9 (Witness excused.)

10 **THE COURT:** Let's see. Can I see counsel on the
11 schedule.

12 (Bench conference on the record:

13 **THE COURT:** Is there another short witness, or should
14 we take a break?

15 **MS. HOFFMAN:** So the next witness would be
16 Gary Niedermeier, who we've called back at Mr. Davis's request.

17 And if --

18 **THE COURT:** Okay.

19 **MS. HOFFMAN:** If it's going to be quick, we could call
20 Gary Niedermeier now, if you'd like to do additional
21 questioning.

22 **MR. DAVIS:** It's probably going to take about ten
23 minutes with him.

24 **THE COURT:** Okay.

25 **MR. DAVIS:** Would you want to do him now? I mean,

1 I --

2 **THE COURT:** If you're ready, let's just do it now.

3 **MR. DAVIS:** Okay. I'm going to cross-examine him on
4 the search at 961 Bennett Place.

5 **THE COURT:** Yes.)

6 (Bench conference concluded.)

7 **THE COURT:** It appears we have another relatively
8 short witness, so we'll --

9 **MS. HOFFMAN:** The Government re-calls
10 Detective Gary Niedermeier.

11 **THE CLERK:** Detective, you're still under oath.

12 **THE WITNESS:** Yes, ma'am.

13 DETECTIVE GARY NIEDERMEIER, GOVERNMENT'S WITNESS,
14 PREVIOUSLY SWORN.

15 DIRECT EXAMINATION

16 **BY MS. HOFFMAN:**

17 **Q.** Good afternoon, Detective Niedermeier.

18 **A.** Good afternoon.

19 **Q.** I believe you testified on Tuesday that you were present
20 during a search warrant that was executed at 961 Bennett Place
21 on November 16th of 2017; is that right?

22 **A.** Correct.

23 **MS. HOFFMAN:** And I don't have any further questions
24 for you, Detective Niedermeier, but I believe Mr. Davis has
25 some questions for you.

~~NIEDERMEIER~~ - ~~CROSS~~

THE WITNESS: Yes, ma'am.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. DAVIS:

Q. Good afternoon, Detective.

A. Good afternoon, sir.

Q. Detective, did you obtain that search warrant for that place --

A. No.

Q. -- 961 Bennett Place?

A. No.

Q. But there was a search warrant obtained; correct?

A. Correct.

Q. And it was a homicide investigation that led to the search warrant for that location and several others in that block; correct?

A. Correct.

Q. And that involved --

THE COURT: Is this relevant?

MS. HOFFMAN: I would object on relevance grounds.

THE COURT: I mean, if you want to come up to the bench. It's an unrelated matter. I think that was testified to.

MR. DAVIS: I'll abide by Your Honor's ruling.

THE COURT: Okay.

1 **BY MR. DAVIS:**

2 **Q.** So it was an unrelated matter that was being investigated;
3 correct?

4 **A.** Correct.

5 **Q.** And there were several search warrants executed within
6 that block of Bennett Place on that day; correct?

7 **A.** Yeah; over multiple days, yes.

8 **Q.** Something had occurred close to 961 Bennett Place, and
9 that led to the investigation; correct?

10 **A.** Yes.

11 **Q.** Now, were you part of the search team for
12 961 Bennett Place on November 16th of 2017?

13 **A.** Yes.

14 **Q.** And did you generate the inventory for the items that were
15 seized from 961 Bennett Place?

16 **A.** No.

17 **Q.** Was there an inventory generated from --

18 **A.** Yes.

19 **Q.** -- the items?

20 And did you -- did you coordinate the search, I guess,
21 basically? Were you the lead detective on-site?

22 **A.** No. That would have been Detective Miller.

23 **Q.** But you were present, though; right?

24 **A.** Yes.

25 **Q.** And who took the photographs in there?

~~NIEDERMEIER - CROSS~~

1 **A.** We requested -- we requested crime lab.

2 **Q.** And that's pretty typical when you execute a
3 search warrant; correct?

4 **A.** Yes, sir.

5 **Q.** You photograph the rooms and the contents of the home and
6 what's found in the home; correct?

7 **A.** Yes.

8 **Q.** Now, in reference to 961 Bennett Place, there was no
9 furniture in that house, was there -- maybe a chair -- in the
10 complete house?

11 **A.** I don't recall much furniture. I don't know if there was
12 none.

13 **Q.** Okay. There was no TV; correct?

14 **A.** I don't recall seeing one.

15 **Q.** No tables?

16 **A.** I don't recall any, no.

17 **Q.** No dressers?

18 **A.** Not that I recall.

19 **Q.** And no beds?

20 **A.** Not that I recall, no.

21 **Q.** And that's the reason there are no photographs of these
22 items in that house; correct?

23 **A.** Yes.

24 **Q.** Now, the house was pretty much, for all intents and
25 purposes, empty; correct?

~~NIEDERMEIER - CROSS~~

1 A. No.

2 Q. Let me show you Government's SW-12-E.

3 Now, that's a photograph from the search of the house;
4 correct?

5 A. Correct.

6 Q. And you see down in the corner that piece of paper?

7 A. Yes.

8 Q. Do you recall seeing that piece of paper when you were
9 there?

10 A. No, not specifically, no.

11 Q. Let's blow it up a little.

12 This paper indicates that this house is being renovated;
13 correct? References housing inspections.

14 A. Yes, I believe so.

15 Q. Electrical inspections.

16 And if you look up at the use type at the top, it has
17 several categories. It has [reading]: Rest/nursing home,
18 convalescent home, old-age/infirm-care facilities, and then for
19 some reason it has animal care facilities.

20 That seems to be what the property is to be used for,
21 correct? According to the paper that was found when you
22 executed the warrant there.

23 Do you want me to blow it up a little more?

24 A. I don't -- I don't know what that means up in the corner.

25 Looks like there's also "store" and some other things. It

1 almost looks like a check box to me.

2 Q. I'm just looking at -- I'll put my cursor on it -- the use
3 type, and I'm assuming that that's for the house.

4 But the bottom line is that it appears that this is all
5 for inspections; this is all related to inspections.

6 And would it be fair to say that most of the items, save
7 for the drug packaging materials, most of the items found in
8 the house were renovation materials? For example, the
9 insulation here.

10 A. Yes; other than the property that we took, yes.

11 Q. Well, you photographed what you found in there; right?

12 A. Crime lab did, yes.

13 Q. And there's a hammer there.

14 Now, you were already involved in the homicide
15 investigation of Ricardo Johnson at the time you executed this
16 warrant; correct?

17 A. Yes.

18 Q. Ricardo Johnson was murdered on August 10th of 2016;
19 correct?

20 A. Correct.

21 Q. And you were in this house, what, 15 months later? I may
22 be off on my count. But over a year later, you're in this
23 house for an unrelated investigation; correct?

24 A. Correct.

25 Q. I'm going to show you what's been marked

1 Government's Exhibit SW-12-C.

2 Do you recognize that photograph?

3 A. Yes.

4 Q. That looks like a Taurus gun box; correct?

5 A. Correct.

6 Q. And that would be this Taurus gun box (indicating);
7 correct?

8 A. Yes, I believe so, yes.

9 Q. Now, the photograph doesn't have a serial number in it.

10 Do you see a serial number in that photograph?

11 A. No.

12 Q. Now, let's take a look at the other photograph for the gun
13 box.

14 Here's another photograph of the gun box. Do you see a
15 serial number on that one?

16 A. No.

17 Q. Did you believe on the day that you executed that warrant
18 that this gun box had anything to do with the Ricardo Johnson
19 homicide?

20 A. No, not on that day.

21 Q. And that's why it's in another evidence room being stored
22 at Baltimore PD as opposed to ATF or this investigation?

23 A. I'm sorry?

24 Q. Well, I mean, that's why that's being stored (indicating)
25 with Baltimore PD.

~~NIEDERMEIER - CROSS~~

1 A. Well, it was recovered under a search-and-seizure warrant
2 on a separate incident, so it was submitted under the incident
3 that the warrant was obtained for.

4 Q. Now, let me ask you a couple other questions about this
5 property.

6 Was the electricity functioning in the house? Was it
7 functional on the date you executed the warrant?

8 A. I -- I don't believe so, no.

9 Q. And was the plumbing functional?

10 A. I don't believe so.

11 Q. And would you agree that in Government's Exhibit SW-12-A,
12 that there's a bag of cement and there's a lot of construction
13 materials, some tiles, just a lot of materials related to
14 renovation?

15 A. Yes, I would agree.

16 Q. Now, Mr. Frazier -- you were there when Mr. Frazier was
17 arrested?

18 A. No.

19 Q. You know the day he was arrested though; correct?

20 A. Yes.

21 Q. And that was January 25th of 2017; correct?

22 A. Correct.

23 Q. And that was months after you searched 961 Bennett Place;
24 correct?

25 A. No.

1 **THE COURT:** I'm sorry. Say that again.

2 **BY MR. DAVIS:**

3 **Q.** That was months -- oh, that was months before you searched
4 961 Bennett Place; correct?

5 **A.** Correct.

6 **Q.** Now, before you searched 961 Bennett Place, did you have
7 the house under surveillance for any reason? Or was this an
8 investigation of some urgency unrelated to Mr. Frazier?

9 **A.** The -- no. The house wasn't under surveillance. It had
10 been secured hours before.

11 **Q.** And did you pull any of the CCTV footage from that block
12 prior to executing the warrant there?

13 **A.** I did not, no.

14 **Q.** Now, you never saw Mr. Frazier going in and out of that
15 house, did you?

16 **A.** On November 16th, 2017?

17 **Q.** I guess let's take it back before, 'cause he was arrested
18 in January of 2017. I guess before January 25th of 2017.

19 **A.** No, I never observed him go in and out of 961.

20 **Q.** And did you observe anyone accessing 961 Bennett Place
21 prior to executing that warrant?

22 **A.** No.

23 **MR. DAVIS:** Your Honor, if I may approach the witness
24 briefly?

25 **THE COURT:** All right.

1 **BY MR. DAVIS:**

2 **Q.** I show you what's been marked as
3 Government's Exhibit 25-C, the Taurus box, which appears to
4 look like the box that was recovered from the house.

5 First of all, when you put the gun in, it doesn't quite
6 fit, does it?

7 **A.** I would say it fits.

8 **Q.** All right. Isn't there normally packaging of some type to
9 keep the gun from bouncing around (indicating)?

10 **A.** Yeah. There would be magazines for the gun and packaging
11 around the magazines.

12 **Q.** And what type of packaging?

13 **A.** I don't know on this particular case.

14 **Q.** Well, on this -- when you seized this box on that date,
15 was there packaging in the box?

16 **A.** No.

17 **Q.** Did you print the box?

18 **A.** I did not.

19 **Q.** Did you ask that it be printed?

20 **A.** No.

21 **Q.** Now, you were actively involved in the investigation of
22 the homicide of Ricardo Johnson; correct?

23 **A.** Correct.

24 **Q.** You were hands-on on the collection of evidence and the
25 processing of evidence for evidentiary purposes?

1 A. Yes. I was part of it, yes.

2 Q. The magazine that goes in the Taurus, was that printed for
3 latent prints or palm prints by your direction?

4 A. No, I don't . . .

5 Q. Now, correct me if I'm wrong; but to put a magazine in a
6 gun, you pick it up and push it in; right? You either do it
7 with the butt of your hand or push it in with your fingers;
8 correct (indicating)?

9 A. Correct.

10 Q. And then when it goes up in there, you pack it on the
11 sides; correct? I mean, it's up in there. You can't smudge it
12 once it's up in there; correct?

13 A. I don't know. Depends on how it fits, I guess.

14 Q. Well, hopefully it fits tight; otherwise, it's going to
15 fall out and you're not going to have anything to shoot with;
16 right?

17 A. Correct.

18 Q. The projectiles that were recovered at the scene, the
19 cartridges, for clarification purposes, the cartridges are
20 ejected from 9-millimeters when they're fired; correct?

21 A. Yes.

22 Q. And the cartridges are the ammunition that's loaded into
23 the magazine; correct?

24 A. Yes.

25 Q. Did you print any of the cartridges that were recovered

1 from the scene?

2 **A.** No. There's no reason to.

3 **Q.** So you didn't request that they be printed?

4 **A.** No.

5 **Q.** Do you know of any way to get ammunition into the magazine
6 without picking up the bullets and putting them into the
7 magazine?

8 **A.** Yes.

9 **Q.** And can you tell us about that.

10 **A.** There's -- some ammunition and guns have what's called a
11 speedloader. So basically you would hold the magazine. The
12 ammunition comes on a strip. There's just four straight down
13 into it.

14 **Q.** And did you find a speedloader at 961 Bennett Place when
15 you executed that warrant on November 16th of 2017?

16 **A.** No.

17 **Q.** How did you gain entry to the property?

18 **A.** It was forced.

19 **Q.** Was anyone inside when you got in?

20 **A.** No.

21 **Q.** Was the door locked?

22 **A.** It was locked and padlocked.

23 **Q.** Padlocked from the outside?

24 **A.** Correct.

25 **MR. DAVIS:** I have no further questions.

~~NIEDERMEIER - REDIRECT~~

1 Thank you, Detective.

2 **THE WITNESS:** Thank you, sir.

3 **THE COURT:** Thank you, Mr. Davis.

4 Any redirect?

5 **MS. HOFFMAN:** Just very briefly.

6 REDIRECT EXAMINATION

7 **BY MS. HOFFMAN:**

8 **Q.** Detective Niedermeier, you were asked about a number of
9 items that were recovered from 961 Bennett Place.

10 Did some of those items appear to have been there for a
11 long time?

12 **A.** All of the items appeared to have been there for quite
13 some time.

14 **Q.** And did you find anything there with any connection to
15 Sydni Frazier?

16 **A.** Yes.

17 **Q.** And what was that?

18 **A.** His ATM debit card with his name on it.

19 **Q.** And you also found this Taurus gun box; is that right?

20 **A.** Correct.

21 **Q.** And you were asked whether you took -- requested
22 fingerprints of cartridges found at the crime scene of
23 Ricardo Johnson, and you said there would be no reason to.

24 Why is there no reason to fingerprint cartridges?

25 **A.** Fingerprints are oils from the fingers left on surfaces.

~~NIEDERMEIER - REDIRECT~~

1 When a cartridge is fired in a gun --

2 **MR. DAVIS:** Objection, Your Honor, unless he's going
3 to be qualified as a fingerprint expert.

4 **THE COURT:** Overruled, given the question. It's his
5 reason.

6 Go ahead.

7 **THE WITNESS:** So when a cartridge is fired in the gun,
8 it's extreme heat, 900 to 1200 degrees, which would burn the
9 oils, leaving no -- no prints on the cartridges, so there's
10 no -- no sense in having the cartridges. Had there been a live
11 round recovered from the scene, I would have asked that that be
12 printed.

13 **BY MS. HOFFMAN:**

14 **Q.** And, Detective Niedermeier, you were also asked whether
15 you requested a fingerprint examination of the Taurus gun.

16 Can you remind us, when was that gun recovered?

17 **A.** That gun was recovered on August 10th, 2016, approximately
18 5:30 p.m.

19 **Q.** And when it was recovered, was there any known connection
20 between the gun and the Ricardo Johnson homicide?

21 **A.** No.

22 **Q.** When did you learn of a potential connection between the
23 gun and the homicide?

24 **A.** December 1st of 2016 was the first time that I was made
25 aware that that gun -- actually, both guns, the first and

~~NIEDERMEIER - RECROSS~~

1 second I was -- were identified to the murder.

2 **Q.** And did you request fingerprints at that point?

3 **A.** No. At that point there was no need to.

4 **Q.** And why not?

5 **A.** The firearms -- the firearms had already been submitted.

6 And the Firearms Unit had test-fired 'em, which is how they
7 were identified, meaning they had already handled 'em. So
8 initially there were more found property; wasn't until after
9 they were fired and handled by firearms that they become
10 evidence in the murder of Ricardo Johnson.

11 **MS. HOFFMAN:** Thank you.

12 I have no further questions.

13 **THE COURT:** Anything else?

14 **MR. DAVIS:** Your Honor, could I ask one follow-up?

15 **THE COURT:** Sure.

16 **RECROSS-EXAMINATION**

17 **BY MR. DAVIS:**

18 **Q.** Detective, the weapons that were recovered on August 10th,
19 the Smith & Wesson and the Taurus, there were a number of live
20 rounds in both weapons; correct?

21 **A.** Yes. I believe both weapons were loaded.

22 **MR. DAVIS:** I have no further questions.

23 **THE COURT:** All right. Thank you, sir. You're
24 excused.

25 **THE WITNESS:** Thank you.

1 (Witness excused.)

2 **THE COURT:** All right. We'll take our lunch recess
3 until 2:10.

4 I'll start by excusing the jury.

5 (Jury left the courtroom at 1:12 p.m.)

6 **THE COURT:** All right. And I'll also excuse the
7 gallery.

8 We'll take the lunch recess until 2:10.

9 (Luncheon recess taken.)

10 **THE COURT:** All right. Are we ready for the next
11 witness and the jury?

12 **MS. PERRY:** I believe we are.

13 The next witness that we intend to call is a
14 relatively short witness, and I did hear from both Mr. Sardelli
15 and Mr. Hazlehurst that there were some objections with respect
16 to the witness that will come second. So I will defer to
17 Your Honor on whether or not you wanted to deal with those
18 issues now.

19 **THE COURT:** Okay. Why don't we try to do that.

20 Mr. Sardelli, you had some issues?

21 **MR. SARDELLI:** Yes, Your Honor.

22 Your Honor, if I may, it may help, I think most of the
23 stuff related to my client is in ATF Report 146.

24 If I may approach and give you a copy, Your Honor?

25 **THE COURT:** Sure.

1 **MR. SARDELLI:** Your Honor, if you go to the bottom of
2 Page 2 and about halfway up Page 3, about the first half of
3 Page 3 is what deals with Mr. Banks, Your Honor.

4 And the concern I have is a concern I had from earlier
5 cooperating witnesses, Your Honor. There's not a lot of detail
6 as to the basis of knowledge. For example, the time frame,
7 even if they identified that the statement was made by my
8 client, which would be an exception to the Hearsay Rule,
9 obviously, there's not a lot of information on the actual time
10 frame. And that's very important, obviously, to establish that
11 it's within the scope of the conspiracy.

12 Also, this is another cooperating defendant that's
13 spent significant periods of time incarcerated, so obviously
14 the time frame is very important, Your Honor.

15 And, also, Your Honor, his basis of knowledge will be
16 very important as well. So I'm concerned about hearsay, the
17 time frame, the basis of knowledge, Your Honor, are all
18 concerns that I have.

19 And I would also lodge some running objections to
20 leading and basis of knowledge and foundation to hearsay as
21 well, Your Honor.

22 Obviously, if they lay the basis of a foundation and
23 then establish it as a statement in furtherance of a
24 co-conspirator or a conspiracy or a statement of the defendant,
25 I understand that.

1 But those are the main concerns I have from this
2 report, and apparently he did not testify at the grand jury.
3 So I'm basing it mostly off the ATF report, which has some
4 generalizations, but not a lot of detail as to the foundation
5 and the time, Your Honor. And that gives me the same concerns
6 I had before from previous cooperating witnesses, Your Honor.

7 **THE COURT:** Okay. Thank you.

8 Well, obviously there's nothing specific to rule on at
9 the moment. But certainly in general, I will expect the
10 Government counsel will try to elicit as much specific
11 information as possible about times and basis of knowledge
12 before asking the ultimate question. Okay?

13 **MS. PERRY:** Yes, Your Honor.

14 **THE COURT:** And obviously you're still free to object
15 to any specific question.

16 You have your general objection. But if there's some
17 specific time or point that you feel the need to make an
18 objection, you may, of course.

19 **MR. SARDELLI:** Yes, ma'am.

20 **THE COURT:** Mr. Hazlehurst.

21 **MR. HAZLEHURST:** Yes, Your Honor.

22 Ms. Perry gave notice to myself and Mr. Trainor before
23 the break that the Government intended to use a call TT-3-3533
24 that was originally identified in the exhibit binder as between
25 an unidentified male and Mr. Lockley.

1 And Ms. Perry has informed me and subsequently
2 informed me that Mr. Lashley, the witness who is the second
3 witness, I believe, the Government intends to call this
4 afternoon, has now identified, to his mind, the unidentified
5 male as Mr. Davis.

6 I tried to play the call over the break because I
7 clearly had not been given notice that this was going to be
8 something that was going to be coming in last night. I didn't
9 know that. So I wouldn't have looked at it then. Couldn't do
10 it. The only thing in the database we used was the transcript.

11 So I am just noting an objection as to the late
12 notice, Your Honor.

13 I also think that the purpose of playing the call in
14 regard to Mr. Davis and Mr. Lockley would be, I guess, evidence
15 that they were engaged in drug trafficking. And I think in
16 many respects, it's cumulative evidence. But, again I would
17 note an objection as to the late notice.

18 **MR. TRAINOR:** Mr. Lockley joins.

19 **MR. HAZLEHURST:** Your Honor, it is Page 112 and 113 of
20 the wire call section of the exhibit binder.

21 **THE COURT:** Okay.

22 **MS. PERRY:** And, Your Honor, it's a rather short call.
23 I'm happy to play it if the Court would like to hear it.

24 **THE COURT:** Would Mr. Hazlehurst like to hear it?
25 She's just offered to play the call.

1 **MR. HAZLEHURST:** Yes, Your Honor. I absolutely would
2 like to hear it, obviously, before it is played in court. It
3 is going to be played in court.

4 (Audio was played but not reported.)

5 **THE COURT:** Okay. Anything else based on that?

6 **MR. HAZLEHURST:** No, Your Honor. Again, just noting
7 the objection as to the late notice. And obviously, I do think
8 to the extent that even if the call is identified as such as
9 Mr. Davis participating, it is, in essence, cumulative.

10 **THE COURT:** All right. That may be, but I don't see
11 any significant prejudice that would warrant keeping it out,
12 assuming that your witness is -- if you're offering that for
13 some reason relevant to his testimony, it's okay.

14 **MS. PERRY:** Yes, Your Honor.

15 If you'd like me to put those reasons on the record,
16 I'm happy to. But I believe the witness would testify that he
17 is familiar with both the individuals in the call.

18 This is one of the only wire calls that Mr. Davis has
19 been captured over. And the phone number that he's calling on
20 is of particular relevance, as that is the number that has
21 been -- has come up with respect to Mr. Davis several times and
22 was in contact with Mr. Frazier on the night of August 10th of
23 2016.

24 **MR. HAZLEHURST:** Your Honor, in that regard, I
25 would -- perhaps it's a better topic to take up with the

1 Government counsel in terms of how -- apparently Mr. Lashley
2 reviewed it this morning, and I'm somewhat curious about the
3 circumstances.

4 Obviously, that number has, to some extent, been
5 identified with Mr. Davis. And to the extent how
6 Mr. Lashley -- the call was introduced to him, whether the
7 number was talked about, those sorts of details.

8 Now, again, I think that that may bear on the
9 reliability of the identification. But it also, just in terms
10 of how this has transpired and as late as it's been done, that
11 is pertinent information.

12 **THE COURT:** Would you like to comment on that,
13 Ms. Perry?

14 **MS. PERRY:** Certainly, Your Honor. I'm happy to,
15 Your Honor.

16 And it was this morning that Mr. Lashley heard the
17 call. I simply played the call for him and asked him if he
18 recognized any of the voices in the call and who he recognized
19 them to be.

20 I, in fact, played him the call. He had not seen the
21 transcript at all when the call was played for him, and he
22 identified the voices as Creams and T-Roy.

23 **THE COURT:** Did you direct him to the phone number in
24 any way?

25 **MS. PERRY:** After he identified the individuals as

1 Creams and T-Roy, I did not do anything else. I played him a
2 couple of other calls that were to the same phone number. He
3 again identified the voices in those calls. I don't intend to
4 play those calls. I did not show him those transcripts.

5 However, after making the determination that I agreed
6 and believed that he was able to identify them, I did put up
7 the transcript, because I did tell him that I would be asking
8 him on the stand to just read the number.

9 But I didn't -- we didn't go any further into the
10 number, and it was not a part of --

11 **THE COURT:** And it was after he had identified the
12 voice?

13 **MS. PERRY:** Yes, Your Honor.

14 **THE COURT:** Okay.

15 **MR. HAZLEHURST:** Your Honor, again, I just would note
16 an objection for the record and ask that it be a continuing
17 objection to the playing of the call.

18 **THE COURT:** Okay.

19 **MR. ENZINNA:** Thank you.

20 **THE COURT:** All right. Thank you.

21 **MR. ENZINNA:** Your Honor, there may be an issue with
22 respect to the first witness.

23 If I may just consult with Government counsel for a
24 minute.

25 **THE COURT:** Sure.

1 (Counsel conferred.)

2 **MR. ENZINNA:** Your Honor, no issue.

3 **THE COURT:** No issue.

4 All right. In that case we will bring in the jury.

5 (Jury entered the courtroom at 2:29 p.m.)

6 **THE COURT:** All right. Does the Government have
7 another witness?

8 **MS. PERRY:** Yes, Your Honor. The Government calls
9 Special Agent David Cheplak.

10 **THE CLERK:** Please raise your right hand.

11 SPECIAL AGENT DAVID CHEPLAK, GOVERNMENT'S WITNESS, SWORN.

12 **THE CLERK:** Please be seated.

13 Please speak directly into the microphone.

14 **THE WITNESS:** Okay.

15 **THE CLERK:** Watch the water so it doesn't spill out.
16 Be careful.

17 State and spell your full name for the record, please.

18 **THE WITNESS:** David Cheplak, C-H-E-P-L-A-K.

19 **THE CLERK:** D-A-V-I-D?

20 **THE WITNESS:** Yes, ma'am.

21 **THE CLERK:** Thank you.

22 DIRECT EXAMINATION

23 **BY MS. PERRY:**

24 **Q.** Good afternoon.

25 **A.** Good afternoon.

1 Q. With which law enforcement agency do you work?

2 A. I'm with the Bureau of Alcohol, Tobacco, Firearms &
3 Explosives.

4 Q. And what is your title there?

5 A. I'm a Special Agent.

6 Q. How long have you been a Special Agent with the ATF?

7 A. 12 years.

8 Q. Now, I want to direct your attention to February of 2017.

9 Around that time were you asked to assist in a federal
10 investigation being conducted by the ATF?

11 A. Yes, I was.

12 Q. And what were you asked to do?

13 A. I was asked to go to a regional jail in Northern Neck in
14 Warsaw, Virginia, and effect the search of several cells of
15 defendants or inmates that were locked up in an ATF
16 investigation.

17 Q. So I want to direct your attention specifically to
18 February 13th of 2017 around 1 o'clock in the morning. Where
19 were you at that date and time?

20 A. I was at the Northern Neck Regional Jail in Warsaw,
21 Virginia.

22 Q. And were you with anyone else?

23 A. Yes. There was a task force officer, Charles Caldwell,
24 who accompanied me down there.

25 Q. And did there come a time when you assisted in a search at

1 the Northern Neck Regional Jail?

2 **A.** Yes.

3 **Q.** Where did you search?

4 **A.** We searched specifically four different jail cells.

5 **Q.** And do you recall the individual cells that you searched?

6 **A.** Yes. Specifically, one of them was Dante Bailey.

7 **Q.** And when you searched Mr. Bailey's cell, can you just tell
8 us just very briefly what the cell looked like, how many
9 occupants in the cell were there.

10 **A.** Sure. Each cell had two inmates in it. There were bunk
11 beds off -- two of them on the left-hand side. There was a
12 toilet, a sink, a mirror, and, you know, a space for some of
13 their belongings underneath the bottom bunk.

14 **Q.** And did you search the entirety of the cell?

15 **A.** Yes.

16 **Q.** Was anything recovered from Mr. Bailey's cell?

17 **A.** Yes; documents and photos.

18 **Q.** So I want to approach and show you
19 Government's Exhibit GP-13 for identification only.

20 **MR. ENZINNA:** Your Honor --

21 **THE COURT:** Yes?

22 **MR. ENZINNA:** -- we have an objection to this exhibit.
23 May we approach?

24 **THE COURT:** Okay.

(Bench conference on the record:

THE COURT: It was ID only, but are you planning to have him identify and admit certain specific documents?

MS. PERRY: Yes. Identified as 13-A, which I will pull up on the screen. But I'm just seeking to have him authenticate that what is in front of him is what he recovered. And then 13-A will be excerpts of what he recovered.

THE COURT: Is there an objection to 13-A?

MR. ENZINNA: No.

MS. WHALEN: For ID only; right?

THE COURT: But 13-A is going to be admitted.

MR. ENZINNA: So 13 is different from 13-A. My objection is to 13. 13 is ID only.

THE COURT: 13 is ID only.

However, if the next step is pulling something out and saying 13-A --

MS. PERRY: It will be.

THE COURT: It will be.

Do you have an objection?

MR. ENZINNA: No.

THE COURT: Okay.)

(Bench conference concluded.)

BY MS. PERRY:

Q. So, again, looking at what's in front of you as Government's Exhibit 13-A for identification only, do you

~~CHEPLAK - DIRECT~~

1 recognize what's in front of you?

2 A. Yes.

3 Q. What is it?

4 A. These are the documents and photos that were recovered
5 from Mr. Bailey's cell.

6 Q. I'm now going to show you what's been marked as
7 Government's Exhibit GP-13-A.

8 And do you recognize what's on the screen?

9 A. Yes.

10 Q. And are these excerpts portions of what is included in
11 Government's Exhibit GP-13 for identification only?

12 A. Yes, they are.

13 Q. And is this the entirety of GP-13, or is it just some
14 portion?

15 A. It's just a portion of it.

16 Q. Now, I want to walk through GP-13.

17 Can you tell us, first, what the first page of GP-13-A
18 says.

19 A. It says "Murdaland Mafia."

20 Q. And do you recall where specifically within the cell each
21 of these documents was recovered from?

22 A. Everything was underneath the bottom bunk. It was like
23 a -- almost like a storage bin, like a trundle bed type of
24 storage, underneath the bottom bunk.

25 Q. Now, turning to Page 2 of GP-13-A, can you tell us what

~~CHEPLAK - DIRECT~~

1 we're looking at here.

2 **A.** One of the pieces of paper that were recovered from the
3 stack of documents.

4 **Q.** And what does it say?

5 **A.** It says "My All Family I Am," and the capital letters are
6 "M-A-F-I-A."

7 **Q.** Turning now to Page 3.

8 Just a moment. I'm going to direct your attention down
9 here to the bottom.

10 Can you read for us what this says.

11 **A.** [Reading]: From the forest, now arises the Wolf, the
12 royal bloodline whose duty is to take the streets back. Enter,
13 Generation MOBB Life.

14 **Q.** Turning to Page 4. I'm going to zoom in here at the top.

15 Can you just read us this first line (indicating).

16 **A.** [Reading]: Murdaland Mafia, a family that was built for
17 only a chosen few.

18 **Q.** And then can you read us the first line of the next
19 paragraph.

20 **A.** It looks like [Reading]: What is MOBB like.

21 Oh [reading]: What it MOBB like.

22 **Q.** And turning down here, the last paragraph.

23 Can you tell us what this sentence says.

24 **A.** [Reading]: With opportunity grew unity, like a chance of
25 a lifetime and built we push it to the limit.

~~CHEPLAK - DIRECT~~

1 I'm sorry, I skipped a line.

2 [Reading]: With opportunity grew unity, like a chance of
3 a lifetime. And from it all grew respect, which was demanded
4 by the threat of death.

5 Q. And then the last line -- oop, my apologies.

6 Can you read this last portion.

7 A. [Reading]: We MOBB and live life riding like it is the
8 last time every time. You ready? Mafia, My All Family I Am.

9 Q. Now, turning to the next page, can you just read us the
10 first portion of this first sentence or the first line.

11 A. [Reading]: What it mob like? With me, you already
12 fuckin' know, us or nothing.

13 Q. And then turning your attention down to the bottom.

14 Can you tell us what this portion says.

15 A. [Reading]: I know for a fact that a lot of you who are
16 reading this probably have lost a loved one because I popped or
17 got him popped -- got him or her ass popped. No disrespect.
18 It was their time to go. Just be thankful that you still
19 have -- that you still here to read about it.

20 I can't read what's above it.

21 Then the next sentence starts [reading]: I've never done
22 anybody who didn't deserve it. My good has always outweighed
23 the bad. Then again, you be the judge. It's a new world
24 order, mafukaz.

25 Q. Turning to the next page and turning to the final page of

~~CHEPLAK - DIRECT~~

1 this exhibit, can you tell us what we're looking at here in the
2 last page of Government's Exhibit GP-13-A.

3 **A.** Again, it's another page that came out of the documents
4 recovered from Mr. Bailey's cell. And it appeared to be that,
5 you know, names and phone numbers and addresses of associates.

6 **Q.** And looking here at the top, can you tell us what this
7 part says.

8 **A.** It says [reading]: Hollywood, 2903 West Lanvale Street,
9 21216.

10 **Q.** Can you read this portion for us.

11 **A.** Looks like -- the name is Mike Singer. And then it's got
12 in parentheses a nickname, Blizz. A phone number,
13 (410) 793-6824. Address of 412, looks like Fevendale Avenue
14 Glen Burnie, Maryland, 21061.

15 **Q.** And do you see a name here?

16 **A.** "Toy (Bino's wife)," in parentheses.

17 **Q.** And can you tell us what it says here.

18 **A.** "Champagne."

19 **Q.** Is there a number associated with Champagne?

20 **A.** Yes; it looks like 44 -- I'm sorry -- (443) 629, looks
21 like maybe 5430.

22 **Q.** And is there a name here?

23 **A.** It's -- can you zoom out, actually.

24 **Q.** Certainly.

25 **A.** [Reading]: Bandi. (410) 905-4225, 920 Appleton Street,

~~CHEPLAK - DIRECT~~

21223.

Q. And do you see a name and two numbers here at the bottom?

A. It's M-Easy, (240) 681-8608 and (202) 246-6979.

Q. Can you just tell us if there's a name here.

A. Looks like Fred, (443) 766-6957, I believe.

Q. And then can you tell us what this name is?

A. Menace.

Q. Thank you.

Now, in addition to searching Mr. Bailey's cell, did you search any other cells who were -- any other cells of individuals who were the subject of the investigation?

A. Yeah. A total of four cells were searched.

Q. And was one of the cells searched a cell belonging to Dominick Wedlock?

A. Yes.

Q. And was there anything noteworthy about the cell walls of Mr. Wedlock's cell?

A. There was graffiti on the walls that we photographed.

Q. I'm going to show you Government's Exhibit GP-14-D.

Do you recognize this?

A. Yes.

Q. What are we looking at?

A. That's -- that was written on the walls in Dominick Wedlock's jail cell.

Q. And can you just read what the graffiti said.

~~CHEPLAK - CROSS~~

1 **A.** The top is "MOB." Down underneath it is "MMP." Then it
2 looks like [reading]: GMG, GMB, fuck the police, fuck the
3 feds.

4 And then written vertically looks like
5 "Murdaland Mafia Piru."

6 **Q.** And can you see what's down here at the bottom
7 (indicating).

8 **A.** Looks like "Nick B-More."

9 **Q.** Agent Cheplak, other than searching the cells in
10 Northern Neck, Virginia, in February of 2017, did you have any
11 other involvement with this investigation?

12 **A.** No.

13 **MS. HOFFMAN:** I have nothing further.

14 Thank you.

15 **THE COURT:** Thank you.

16 Mr. Enzinna.

17 CROSS-EXAMINATION

18 **BY MR. ENZINNA:**

19 **Q.** Good afternoon, Agent.

20 **A.** Good afternoon.

21 **Q.** Let me start where you left off with the graffiti in
22 Mr. Wedlock's cell.

23 **A.** Yes.

24 **Q.** You said that was in Mr. Wedlock's cell; correct?

25 **A.** That's correct.

~~CHEPLAK - CROSS~~

1 Q. Not in Mr. Bailey's cell?

2 A. That's correct, sir.

3 Q. Now, I'm showing you GP- -- Government's Exhibit GP-14-D,
4 which you just testified about.

5 A. Yes.

6 Q. And you see in the middle of the graffiti, there are the
7 words "Fuck the Police"?

8 A. Correct.

9 Q. That's the name of a famous rap song, isn't it?

10 A. Are you referring to the NWA song?

11 Q. Yes, I am.

12 A. It's not spelled that way, but I believe that is a phrase
13 used in a rap song; that's correct.

14 Q. Now, let's turn to the Government's Exhibit GP-13-A.

15 Now, you testified that these were excerpts from the
16 larger stack that you recovered from the cell; correct?

17 A. Yes, sir.

18 Q. Were these pages all together when you found them?

19 A. Everything was commingled, yes.

20 Q. Well, what I'm asking is: Were they -- were these --
21 these are -- there's roughly six pages here that you walked
22 through (indicating).

23 A. Right.

24 Q. And I guess what I'm really asking is, this page, the last
25 page, the telephone numbers, seems sort of thematically

~~CHEPLAK - CROSS~~

1 different from the rest of it.

2 Were they -- was there something in the package that made
3 you think that they belonged together?

4 A. All I can tell you is that all of those documents were all
5 stacked together. It wasn't in any kind of organized fashion.
6 It was just a large stack of documents scattered throughout a
7 bin.

8 Q. So these may not have been consecutive pages?

9 A. That's correct. Yeah. They wouldn't have gone
10 necessarily in that order.

11 Q. All right. Well, let's start with the title page here,
12 "Murdaland Mafia."

13 That was in the area you searched?

14 A. Yes, sir.

15 Q. Was it printed on regular paper, card stock, anything?

16 A. I don't recall.

17 Q. But it's printed, not handwritten?

18 A. That does look like it's typed.

19 Q. Okay. As opposed to the next page, which is handwritten;
20 right?

21 A. Yes. That looks like handwriting.

22 Q. And then the page after that, this page that you read
23 [reading]: In the first decade of the new millennium, blood
24 ruled.

25 A. Yes.

~~CHEPLAK - CROSS~~

1 Q. Does this remind you at all of a book page?

2 A. What it looks like to me is it's -- that's a -- what you
3 have there looks like a photocopy of college-ruled paper with
4 where you can obviously see that there's hole punches on it.

5 Q. Right.

6 A. So it was obviously something that was written on white or
7 yellow college-ruled paper.

8 Q. No, I'm not asking did this come from a published book.
9 What I'm asking is: Is the format of this similar to what
10 you'd see in a book with a title page and epigraphs?

11 A. I wouldn't be able to tell you what I think it was. All I
12 did was take it, review it, and pass it on to the agents.

13 Q. I understand.

14 Agent, who is Taydon Goonz?

15 A. I'm sorry?

16 Q. Who is Taydon Goonz?

17 A. That name does not ring a bell.

18 Q. Okay. Are you familiar with the names of the individuals
19 involved in this investigation?

20 A. Not specifically. I've seen all of the names because I
21 helped coordinate the searches of the jail cells all throughout
22 Maryland and Virginia. I wrote a report that listed all of the
23 defendants whose jail cells were being searched.

24 If I had that report and that name was on there, I'd be
25 able to recall it. But it doesn't ring a bell as I sit here

~~CHEPLAK - CROSS~~

1 right now.

2 Q. Well, let me show you this page of this document. I'm
3 going to zoom in here, I hope. There we go.

4 If you look on the second paragraph, you read part of that
5 paragraph: What is MOBB like?

6 A. Yep.

7 Q. It says [reading]: For you all that ain't heard because
8 you all stuck in your own little cities and towns, comma, the
9 name's Taydon Goonz, but I'm known as Wolf.

10 A. I'm sorry. Where are you -- the green lines are showing
11 me that? I don't see.

12 Q. Oh, I'm sorry.

13 A. It's not lining up.

14 Q. No. I was just --

15 A. Okay. I see where you're talking about.

16 Q. -- dragging my hand across here.

17 Right here. Let me see if I can do this.

18 [Reading]: Yeah, the name's Taydon Goonz, but I'm known
19 as Wolf.

20 A. I see that.

21 Q. Did that mean anything to you?

22 A. No, it doesn't mean anything to me.

23 Q. But it sounds like someone is saying that Wolf is
24 Taydon Goonz, doesn't it?

25 MS. PERRY: Objection.

~~CHEPLAK - CROSS~~

1 **THE COURT:** Overruled.

2 **THE WITNESS:** That does sound to me like whoever's
3 writing that is writing from the first person. So, yeah, that
4 would be an interpretation somebody could make from that.

5 **BY MR. ENZINNA:**

6 **Q.** Writing from the first person in the character of
7 Taydon Goonz?

8 **A.** Sure.

9 **Q.** Okay. And let's look at the next page.

10 And in the second line -- well, it's the same sentence.
11 It says [reading]: For all you that ain't heard because you're
12 in your own little towns and cities, the name's Taydon Goonz,
13 but I'm known as Wolf.

14 **A.** I see.

15 **Q.** Do you see that?

16 **A.** Yes, I see that. I'm sorry.

17 **Q.** All right. Now, let's turn to the next page.

18 Okay. Let's start with this paragraph. It starts right
19 here it says, "Meet Shy."

20 Do you see that?

21 **A.** Yes, sir.

22 **Q.** Who's Shy?

23 **A.** I don't know.

24 **Q.** Okay. It goes on and says [reading]: A young boy turned
25 into a man early on when tribulation stuck -- struck in the

~~CHEPLAK - CROSS~~

1 name -- in the form of poverty. When that -- where trial
2 appeared in the form of responsibility, turning a little
3 brother into a son. Then little brother morphing into a killa,
4 and that became his name.

5 Do you see all that?

6 **A.** Yes, sir.

7 **Q.** Then it continues to say [reading]: Then together -- I
8 can't read that word, by the something, were forced to embrace
9 the frigidness of what comes with the street life of a
10 treacherous city. Will they survive? Or will they succumb to
11 the treachery?

12 Do you see that?

13 **A.** Yes, sir.

14 **Q.** Do you know what that's referring to?

15 **A.** I don't. But if I had to guess, it would probably be
16 referring to life on the streets in Baltimore.

17 **Q.** And then -- well, the next paragraph is sort of a piece of
18 that, isn't it?

19 [Reading]: Baltimore City a place where loyalty is a
20 camouflage.

21 Do you see that?

22 **A.** Yes.

23 **Q.** And if you look in here, it says [reading]: Will this
24 hideous city break Shy? Will it destroy Killa? Or will their
25 collective energy, Killa as the shooter, backing Shy's own

~~CHEPLAK - CROSS~~

1 personal gun game, push Shy to be the next B'more Bad Guy?

2 Do you see that?

3 **A.** Yes, sir.

4 **Q.** Do you have -- did you consider why this is written in
5 question form?

6 **A.** It seems like somebody had a lot of time to write and was
7 expressing their feelings.

8 **MR. ENZINNA:** Okay. All right. I think that's all I
9 have.

10 Thank you.

11 **THE WITNESS:** You're welcome.

12 **THE COURT:** Anybody else?

13 (No response.)

14 **THE COURT:** Any redirect?

15 **MS. PERRY:** No, Your Honor. Thank you.

16 **THE COURT:** Thank you, sir.

17 You can give it back to counsel. Thank you.

18 (Witness excused.)

19 **THE COURT:** Are you ready to get another witness?

20 **MS. PERRY:** Yes, Your Honor. The Government calls
21 Malcolm Lashley.

22 **THE CLERK:** Please raise your right hand.

23 MALCOLM LASHLEY, GOVERNMENT'S WITNESS, SWORN.

24 **THE CLERK:** Please be seated.

25 Please speak directly into the microphone.

~~MALCOLM LASHLEY - DIRECT~~

State and spell your full name for the record, please.

THE WITNESS: Malcolm Lashley, M-A-L-C-O-L-M,
L-A-S-H-L-E-Y.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. PERRY:

Q. Good afternoon, Mr. Lashley.

A. Good afternoon.

Q. Do you go by any other names?

A. Yes.

Q. What other names do you go by?

A. Spook.

Q. Are you currently incarcerated?

A. Yes.

Q. What offenses were you convicted of?

A. Conspiracy and racketeering.

THE COURT: Sir, if you could sit up a little bit and
talk right into the mic.

Thank you.

BY MS. PERRY:

Q. When you say "conspiracy," do you mean drug-trafficking
conspiracy?

A. Yes.

Q. Did you plead guilty to those offenses?

A. Yes.

1 Q. And as part of your guilty plea, did you agree to
2 cooperate with the Government?

3 A. Yes.

4 Q. What is your understanding of your agreement with the
5 Government?

6 A. Can you say that again.

7 Q. What is your understanding of your agreement with the
8 Government?

9 A. To be truthful.

10 Q. And what benefit do you expect to receive in exchange?

11 A. Really, less time.

12 Q. Do you know -- under your agreement, what are you required
13 to do?

14 A. Can you say it again.

15 Q. Under your agreement, what are you required to do?

16 A. Just tell the truth.

17 Q. What happens if you don't tell the truth?

18 A. My plea agreement can change, and I can get the maximum
19 penalty.

20 Q. Have you been sentenced yet?

21 A. No.

22 Q. Have you been made any promises as to what your sentence
23 will be?

24 A. No.

25 Q. Who will ultimately determine what your sentence is?

~~MALCOLM LASHLEY - DIRECT~~

1 **A.** The judge.

2 **Q.** Now, Mr. Lashley, you just told us that you were convicted
3 of racketeering and conspiracy.

4 In addition to these criminal convictions, do you have any
5 other criminal convictions?

6 **A.** Yes.

7 **Q.** Can you summarize them for us.

8 **A.** A drug charge, witness intimidation before, and a couple
9 traffics.

10 **Q.** Mr. Lashley, how old are you?

11 **A.** 28.

12 **Q.** And where did you grow up?

13 **A.** In Baltimore City.

14 **Q.** Did there come a time when you moved to West Baltimore in
15 the area of Windsor Mill and Forest Park?

16 **A.** Yes.

17 **Q.** When did you move there?

18 **A.** Like 2002.

19 **Q.** And when you moved to that area, what was the area like?

20 **A.** Just drugs and stuff like that.

21 **Q.** And did you live there from 2002 until your incarceration
22 in this case, in that area?

23 **A.** Well, a few years before my incarceration, I moved.

24 **Q.** I want to show you Government's Exhibit MAP-34.

25 Can you see that?

1 A. Yes.

2 Q. What are we looking at here?

3 A. Like a map of the area, of the neighborhood.

4 Q. And was this the neighborhood that you were around?

5 A. Yes.

6 Q. And what years were you around in this particular area?

7 A. Since 2002, all the way up till '17.

8 Q. Mr. Lashley, did there come a time when you began selling
9 drugs?

10 A. Yes.

11 Q. When did you start selling drugs?

12 A. Probably like 2003.

13 Q. And at the beginning, what kind of drugs were you selling?

14 A. Cocaine.

15 Q. Were you the only person -- I want to jump forward a
16 little bit to around 2011. Were you still selling drugs around
17 then?

18 A. Yes.

19 Q. And were you the only person in that area selling drugs?

20 A. No.

21 Q. How do you know?

22 A. I mean, basically, the whole neighborhood was.

23 Q. Were you out in the Windsor Mill-Forest Park area on a
24 regular basis?

25 A. Yes.

1 Q. How often were you out there?

2 A. Like every day.

3 Q. And when you were out there, would you see other people
4 who were in the area?

5 A. Yes.

6 Q. So I'm going to come back to your drug selling in a few
7 minutes.

8 But I want to talk about the other people who hung out in
9 the area of Windsor Mill and Forest Park.

10 Were there any specific groups that hung out in that area?

11 A. Yes.

12 Q. Who hung out in that area?

13 A. A lot of gang members.

14 Q. What gang?

15 A. Murdaland Mafia.

16 Q. Did Murdaland Mafia go by any other names?

17 A. 5200 boys or something.

18 Q. Did you -- did you ever know them by initials?

19 A. The gang?

20 Q. The gang.

21 A. MMP.

22 Q. Now, you said something about 5200 boys. Can you tell us
23 what a 5200 boy is.

24 A. Just someone who's from around the neighborhood.

25 Q. And were people who were 5200 boys, were they all members

1 of MMP?

2 A. Mostly, not everyone.

3 Q. So I want to talk about Murdaland Mafia for a minute.

4 Were you a member of Murdaland Mafia?

5 A. No.

6 Q. How did you know about MMP?

7 A. A lot of guys I was -- that I grew up with was MMP. My
8 brother was.

9 Q. And who's your brother?

10 A. His name Melvin Lashley.

11 Q. I'm going to show you Government's Exhibit IND-58.

12 Who is that?

13 A. My brother.

14 Q. You said there were some other individuals that you grew
15 up with who were MMP. Can you tell us who some of those people
16 were.

17 A. My homeboy Reese, Bill, mostly everyone.

18 Q. How were you able to identify whether or not someone was a
19 member of MMP?

20 A. Just handshakes and stuff they did, tattoos and stuff like
21 that.

22 Q. Was there a specific handshake that was used by MMP
23 members?

24 A. Yes.

25 Q. And do you know the handshake?

1 A. No, I really don't.

2 Q. Would you be able to recognize it?

3 A. Yeah, if I seen -- seen someone do it.

4 Q. You also mentioned tattoos. What kind of tattoos let you
5 know whether or not someone was a member of MMP?

6 A. Some dudes might have the initials on 'em, you know.

7 Q. Do you know if there -- did you ever identify any gang
8 signs that were associated with MMP?

9 A. A "M."

10 Q. Now, did you know if MMP had a leader?

11 A. Yes.

12 Q. And how did you know that?

13 A. Pretty much just being in the neighborhood.

14 Q. Did you ever talk to anyone in MMP about it?

15 A. Say it again.

16 Q. Did you ever talk to anyone in MMP about it?

17 A. Yes.

18 Q. Who?

19 A. My brother.

20 Q. And what did you learn about who the leader of MMP was?

21 A. Who was he?

22 Q. (Nods head.)

23 A. Gutta.

24 Q. I'm going to show you Government's Exhibit IND-3.

25 Do you recognize this person?

~~MALCOLM LASHLEY - DIRECT~~

1 **A.** Yes.

2 **Q.** Who is that?

3 **A.** Gutta.

4 **Q.** And do you see Gutta in the courtroom today?

5 **A.** Yes.

6 **Q.** Can you point him out for us.

7 **A.** The first one over there.

8 **Q.** Mr. Lashley, did MMP have a headquarters?

9 **A.** Yes.

10 **Q.** Where was the headquarters?

11 **A.** Just Forest Park and Windsor Mill. That's the gas station
12 area.

13 **Q.** And what gas station is there?

14 **A.** A BP.

15 **Q.** Did MMP have territories other than the area of
16 Windsor Mill and Forest Park?

17 **A.** Yes.

18 **Q.** And what other territories did you know about?

19 **MR. SARDELLI:** Objection, Your Honor; basis of
20 knowledge.

21 **THE COURT:** How does he know it?

22 **BY MS. PERRY:**

23 **Q.** How did you know that MMP had other territories?

24 **A.** Just from dudes being from other areas comin' around the
25 neighborhood.

1 Q. Did you have conversations with those people?

2 A. Yeah.

3 Q. And did you have conversations with other members of MMP
4 about it?

5 A. Yes.

6 Q. And have you ever been to the area of Gwynn Oak and
7 Liberty Heights?

8 A. Yes.

9 Q. And when you personally went to the area of Gwynn Oak and
10 Liberty Heights, what did you observe there?

11 A. Just drug activity.

12 Q. And were you able to determine whether or not there were
13 members of MMP in that area?

14 A. Yes.

15 Q. How were you able to determine that?

16 A. From certain colors they might have wore and stuff like
17 that.

18 Q. And so did -- were you able, based on all of that, to
19 determine whether or not there was another area that was an MMP
20 territory?

21 A. Can you say it again.

22 Q. So did you determine if there were other MMP territories?

23 A. Oh, yes.

24 Q. And where was that?

25 A. At Liberty and Gwynn Oak area.

1 Q. Now, do you know if there was a leader in the Gwynn Oak
2 area?

3 A. Yes.

4 Q. And how do you know?

5 A. Through just dudes around my neighborhood.

6 Q. Did you talk to anyone specifically about whether or not
7 there was a leader in the Gwynn Oak area?

8 A. Um, yes. I later on found out.

9 Q. Who did you talk to?

10 A. My brother.

11 Q. And what did your brother tell you about who the leader
12 was?

13 A. The guy Dirt.

14 Q. And did you ever have a personal interaction with Dirt?
15 Did you ever meet him?

16 A. A couple years back.

17 Q. I'm going to show you Government's Exhibit IND-7.
18 Do you recognize this person?

19 A. Yes.

20 Q. Who is it?

21 A. Dirt.

22 Q. Now, I think you've already sort of told us this; but as a
23 nonmember of MMP, how did you know so much about MMP?

24 A. Just being around the guys in the neighborhood, my
25 brother, you know.

1 Q. Mr. Lashley, based on your own observations, how did MMP
2 members and 5200 boys make money?

3 A. Drugs.

4 Q. And where did they sell drugs?

5 A. All around the neighborhood.

6 Q. And when you say "the neighborhood," do you mean
7 Windsor Mill and Forest Park?

8 A. Forest Park-Windsor Mill.

9 Q. What were they selling?

10 A. Cocaine, heroin.

11 Q. Now, how often were you selling in the
12 Windsor Mill-Forest Park area?

13 A. Every day.

14 Q. And when you were out there, did you see what was going on
15 around you?

16 A. Yes.

17 Q. How often were members of MMP and 5200 boys selling in the
18 neighborhood?

19 A. Every day.

20 Q. Now, I want to talk specifically about 2015 and 2016 time
21 frame.

22 Did you observe during that time frame 5200 boys and
23 members of MMP selling drugs near the BP gas station?

24 A. Yes.

25 Q. And what drugs did you see being sold?

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1 **A.** "Heron" -- heroin.

2 **Q.** How much heroin -- how much did heroin sell for at the BP
3 gas station during that specific time frame?

4 **A.** Anywhere from like \$100 a gram.

5 **Q.** Anywhere from \$100. So was it usually around \$100 a gram?

6 **A.** Yes.

7 **Q.** And could it go up or down from there?

8 **A.** Sometimes up.

9 **Q.** And how much would it go up to?

10 **A.** Like \$120.

11 **Q.** And how often -- when -- let me actually -- let me take
12 that back and ask you.

13 How much heroin was being sold to individual customers at
14 the BP gas station on any given transaction from what you could
15 observe?

16 **A.** Anywhere from 1 -- 1 to 3 -- 1 to 3 grams.

17 **Q.** And how often was heroin being sold there?

18 **A.** A lot.

19 **Q.** So based on all this information, how much money from
20 heroin sales do you believe was being made at the BP gas
21 station during this time frame on a daily basis?

22 **MS. WHALEN:** Objection, Your Honor.

23 **THE COURT:** Do you want to approach the bench.

24 (Bench conference on the record:

25 **MS. WHALEN:** With each of these witnesses, I've tried

1 to object with this type of question 'cause it's basis of
2 knowledge and speculative.

3 There is no way -- and it's so broad and so general.
4 There is no way that he could know how much money was being
5 earned by the -- what sounds like 10 to 15 or numerous people
6 who are selling drugs.

7 He can't -- he just can't give a number, I think, that
8 is an accurate number. And so for that reason, I just think
9 it's an unfair way of trying to prove weight and an unfair way
10 of trying to prove financial gain, I guess.

11 He doesn't even know how much they were turning on
12 each trick and profiting. He can talk about himself.

13 **THE COURT:** I agree on a number of points. When you
14 say, "How much money was being made?" that implies profit.
15 There's absolutely no basis for that.

16 The other thing is that he has made it clear he's out
17 there selling. He's not a member of this charged conspiracy.
18 Presumably, there are other people.

19 **MS. PERRY:** He was a member of the charged conspiracy.

20 **THE COURT:** Well, he's not a member of the -- you just
21 said he's not a member of the gang. I understand he's a
22 member -- okay, a member of the conspiracy.

23 But he is not a member of the gang.

24 I think if it's just a matter of people doing math,
25 the jury can do that as well as anybody else.

1 You've got him saying it's about a hundred grams.
2 It's 1 to 3 grams per transaction. He said there's a lot of
3 transactions, and he's out there every day. And that's all
4 fine. But the specifics of how much money was being made,
5 implying that it's being made by the defendants on trial, I'll
6 sustain the objection.

7 **THE CLERK:** Judge, from the jury (handing).

8 **THE COURT:** Okay. A question from the jury: Did he
9 have to pay a tax to MMP on the drugs he sold in the BP area?

10 **MS. PERRY:** I will be asking him some questions about
11 selling in the area and how he was able to sell it in the
12 area --

13 **THE COURT:** Okay.

14 **MS. PERRY:** -- and about what would happen if people
15 who were not in MMP sold in the area. I'm getting there.

16 **THE COURT:** Okay.)

17 (Bench conference concluded.)

18 **BY MS. PERRY:**

19 **Q.** Mr. Lashley, you told us that you were not a member of
20 MMP. Were you a 5200 boy?

21 **A.** Yeah, I would consider myself that.

22 **Q.** Now, could people who were not 5200 boys or MMP sell drugs
23 in the Windsor Mill-Forest Park area?

24 **A.** No.

25 **Q.** What would happen if they tried to?

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1 **A.** Get beat up, maybe killed.

2 **Q.** And as a non-MMP member, how were you able to sell drugs
3 in the area?

4 **A.** From living around there for some time.

5 **Q.** And did your brother being a member of MMP play a role in
6 your ability to sell in the area?

7 **MR. SARDELLI:** Objection; leading, Your Honor.

8 **THE COURT:** Overruled.

9 **BY MS. PERRY:**

10 **Q.** You can answer.

11 **A.** Yes.

12 **Q.** Now, you have already talked about you selling in this
13 particular area, and you told us that you sold -- I believe you
14 told us that you sold cocaine.

15 Did there come a time when you sold something other than
16 cocaine?

17 **A.** Yes.

18 **Q.** When was that?

19 **A.** Around, like, 2015, '14, '15.

20 **Q.** I'm going to come back to that in a second as well.

21 But was there a different name that you gave drug
22 customers?

23 **A.** Yes.

24 **Q.** What name did you give drug customers?

25 **A.** As far as my name?

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1 Q. Uh-huh.

2 A. Tay.

3 Q. And why did you give them a different name?

4 A. Just so they wouldn't, you know, give my real name.

5 Q. And was it common amongst people who sold at the
6 Windsor Mill-Forest Park area to give a different name?

7 A. Yes.

8 THE CLERK: Mr. Lashley, can you sit up, please.

9 THE WITNESS: Yes.

10 THE CLERK: Thank you.

11 BY MS. PERRY:

12 Q. Mr. Lashley, where did you get the drugs that you sold in
13 that area?

14 A. From whoever I could get 'em from, I would buy from.

15 Q. And was there someone specific -- going back to when you
16 were selling cocaine, was there someone specific who would
17 supply you?

18 A. Yes.

19 Q. Who would supply you?

20 A. SP.

21 Q. I'm going to show you Government's Exhibit IND-81.

22 Do you recognize this person?

23 A. Yes.

24 Q. Who is that?

25 A. SP.

1 Q. And did SP go by any other names that you knew?

2 A. Spittle.

3 Q. Was SP a member of MMP?

4 A. Yes.

5 Q. How did you know?

6 A. From being around him sometimes.

7 Q. And you said that SP supplied you cocaine. How often did
8 he supply you with cocaine?

9 A. Maybe once a week or so.

10 Q. For how long of a time period?

11 A. Like a few months.

12 Q. And on a typical occasion, how much cocaine was he giving
13 you?

14 A. I would only buy like quarter ounces.

15 Q. And what did he charge you for a quarter ounce?

16 A. \$300.

17 Q. And what were you able to sell it for?

18 A. I could make, like, 5, 6 hundred.

19 Q. You could make 5 or 6 hundred, so does that mean you would
20 be able to sell the quarter ounce for closer to 800?

21 A. No. I would just break it down and probably make 5 or 6
22 hundred.

23 Q. Okay. So I want to jump forward. You told us that there
24 was a time when you started selling heroin.

25 Did SP ever supply you with heroin?

1 A. Like, maybe once or twice.

2 Q. And why did you switch to selling heroin?

3 A. I mean, that's what -- it was a new drug that everybody
4 was selling.

5 Q. And when you purchased SP from -- I mean heroin from SP,
6 how much would you typically purchase from him?

7 A. Only like 10 grams.

8 Q. And what would he charge you for it?

9 A. Anywhere from \$800.

10 Q. And what would you typically be able to sell it for?

11 A. I would make about a thousand, sometimes 1200. Depending
12 on what I charge.

13 Q. Did you ever see SP supply anyone else in the
14 Windsor Mill-Forest Park area with drugs?

15 A. Yes.

16 Q. Who did you see him supply?

17 A. One time I was with my homeboy Bill. A few guys. J-Rock.

18 Q. I'm going to first show you Government's Exhibit IND-55.
19 Who is that?

20 A. Bill.

21 Q. And was Bill a member of MMP?

22 A. Yes.

23 Q. How did you know?

24 A. Just from growing up with him, being around him a lot.

25 Q. I'm now showing you IND-43.

1 Who is that?

2 A. J-Rock.

3 Q. And was he a member of MMP?

4 A. Yes.

5 Q. How do you know?

6 A. From knowing him for years.

7 Q. Now, was there anyone else who supplied you with heroin?

8 A. Yes.

9 Q. Who else?

10 A. A few guys.

11 I would probably buy some from Reese sometimes. I bought
12 some from Syd one time.

13 Q. Let me start with --

14 A. A few guys.

15 Q. Sorry about that.

16 Let me start with Reese. I'm going to show you IND-69.

17 Who is that?

18 A. That's Reese.

19 Q. And was he a member of MMP?

20 A. Yes.

21 Q. How do you know?

22 A. From knowing him for some time.

23 Q. And now I'm going to show you Government's Exhibit IND-32.

24 Do you recognize this person?

25 A. Yeah. That's Syd.

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1 Q. And you said Syd supplies you with heroin?

2 A. Yeah; a few times.

3 Q. Do you see Syd in the courtroom today?

4 A. Yeah.

5 Q. Can you point him out for us.

6 A. Sittin' over there.

7 Q. Mr. Lashley, did Syd go by any other names?

8 A. They would call him Jr. Boss sometimes.

9 Q. And was Syd a member of MMP?

10 A. No.

11 Q. Did you -- you said Syd supplies you with heroin. Did you
12 see Syd in the area of Windsor Mill and Forest Park?

13 A. Yes.

14 Q. And when you would see him there, what would he be doing?

15 A. Just selling drugs.

16 Q. How was Syd able to sell drugs in MMP's territories if he
17 wasn't a member of MMP?

18 A. Just from living around in the area, you know, being
19 around for some time.

20 Q. And was he friends and associates with other members --

21 MR. DAVIS: Objection.

22 THE COURT: Overruled.

23 BY MS. PERRY:

24 Q. Was he friends with other members of MMP?

25 A. Yes.

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1 Q. And would you consider Syd a 5200 boy?

2 A. Yes.

3 Q. Now, you said Syd -- you said that Syd sometimes supplies
4 you with heroin.

5 A. Yeah, a few times.

6 Q. How many times?

7 A. I think I can count on maybe one hand. Like maybe four,
8 five times.

9 Q. And how much would he supply you with?

10 A. I would buy anywhere from 10 grams, sometimes 5.

11 Q. What did he charge you per gram?

12 A. \$75.

13 Q. And what were you able to sell it for?

14 A. A hundred or 120.

15 Q. Did you ever see where Syd kept his supply?

16 A. Yes; once before.

17 Q. Can you tell us how you were able to see where he kept it.

18 A. I mean, just from seeing him go in and get it and then
19 bring it back out.

20 Q. Where would he go?

21 A. I would meet him sometimes down on the block called
22 Bennett block.

23 Q. And so you would meet him over on Bennett?

24 A. Yeah, sometimes.

25 Q. And when you would meet him on Bennett, what would happen?

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1 A. I would pull up, and he will go and get the drugs and I
2 would buy 'em.

3 Q. So you would see him go inside of where?

4 A. A house.

5 Q. And was that house on Bennett?

6 A. Yes.

7 Q. And then when he would come back out, what would happen?

8 A. I would basically buy the drugs from him.

9 Q. Did he supply you with heroin each time that you saw him
10 go into Bennett?

11 A. Yes.

12 Q. Now, I'm going to come back to Syd in a little bit.

13 Did anyone else ever offer you drugs or try to get you to
14 buy drugs from them?

15 A. Yeah; a few guys.

16 Q. Can you tell us who.

17 A. Bo once offered me some drugs before, but I wouldn't take
18 'em.

19 Q. I'm going to show you Government's Exhibit IND-2.

20 Who is this?

21 A. That's Bo.

22 Q. And do you see Bo in the courtroom?

23 A. Yes.

24 Q. Can you point him out for us.

25 A. Over there (indicating).

1 Q. Now, Mr. Lashley, when did you first meet Bo?

2 A. Back in early 2000s.

3 Q. And was Bo a member of MMP?

4 A. That I knew of, no.

5 Q. Was he -- did you see him in MMP's territories?

6 A. Yes.

7 Q. And when you would see Bo in MMP's territories, what would
8 you see him doing?

9 A. Sometimes just hangin' around. Or if he was dealing, you
10 know, coming around, hangin' with somebody.

11 Q. Now, you said that Bo offered to sell to you.

12 Can you tell us about that time.

13 A. It was a while ago. Just maybe offered me something, but
14 I wouldn't take it 'cause I don't like to owe -- owe money.

15 Q. What did he say?

16 A. He would just ask me if I was all right or if I need
17 anything.

18 Q. And how did you respond?

19 A. I would say, No. I was okay.

20 Q. And tell us again why you would -- didn't take them from
21 Bo.

22 A. So I wouldn't have to owe any money.

23 Q. And what was Bo offering you?

24 A. Drugs.

25 Q. What kind of drugs?

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1 **A.** Heroin.

2 **Q.** Did you ever see Bo or did you know Bo to supply drugs to
3 other people who sold in the area?

4 **A.** Yes.

5 **Q.** And did you ever personally see Bo with a gun?

6 **A.** Maybe once before.

7 **Q.** Can you tell us about that.

8 **MS. AMATO:** Your Honor, a time frame? I don't know
9 what we're talking about. 2001? What are we talking about
10 here?

11 **BY MS. PERRY:**

12 **Q.** When did you see Bo with a gun?

13 **A.** I can't really remember the year, but like a couple years
14 ago, like.

15 **Q.** And where was it?

16 **A.** We was in the neighborhood.

17 **Q.** And what did you see?

18 **A.** A handgun.

19 **Q.** Where was it on Bo?

20 **A.** Just on his hip.

21 **Q.** Now, I'm going to show you Government's Exhibit IND-60.

22 Do you recognize this person?

23 **A.** Yes.

24 **Q.** Who is this?

25 **A.** T-Roy.

1 Q. And how did you know T-Roy?

2 A. Growing up around the neighborhood.

3 Q. Did you frequently see T-Roy in the area of Windsor Mill
4 and Forest Park?

5 A. Yes.

6 Q. How often would you see him there?

7 A. Every day.

8 Q. And do you see T-Roy in the courtroom today?

9 A. Yes.

10 Q. Can you please point him out for us.

11 A. In the black.

12 Q. Now, you say you would see T-Roy in the area. What would
13 you see T-Roy doing?

14 A. Hangin' out, sellin' drugs.

15 Q. What did T-Roy sell?

16 A. Heroin.

17 Q. Did you actually see T-Roy interact with drug customers?

18 A. Yes.

19 Q. Did you -- did you know whether or not T-Roy had people
20 working for him?

21 A. Yes.

22 Q. Can you explain what you mean by that.

23 A. Just sometimes he would have a couple guys, you know,
24 workin' for him.

25 Q. Was T-Roy a member of MMP?

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1 **A.** No, not that I know of.

2 **Q.** How was T-Roy able to sell in the Windsor Mill-Forest Park
3 area?

4 **MR. TRAINOR:** Objection. Basis; foundation.

5 **THE COURT:** All right. If you want to rephrase it.

6 **BY MS. PERRY:**

7 **Q.** Mr. Lashley, did you ever have a conversation with anyone
8 about T-Roy?

9 **A.** Did I ever have a conversation?

10 **Q.** Let me actually rephrase.

11 Mr. Lashley, did you know -- when you saw T-Roy in the
12 area, who would he be around with?

13 **A.** A few dudes. Some of the younger guys. SP sometimes.

14 **Q.** Did you see him hanging out with or around members of MMP?

15 **A.** Yes.

16 **MR. TRAINOR:** Objection; leading.

17 **THE COURT:** Overruled.

18 **BY MS. PERRY:**

19 **Q.** And when you saw him around other members of MMP, did he
20 seem to have a problem with them?

21 **A.** No.

22 **Q.** And so based on your observations of T-Roy in the area,
23 why do you believe he was able to be in the area selling drugs?

24 **A.** 'Cause he -- he's from around the area.

25 **Q.** Now, I want to play for a second a call that's come into

1 evidence as Government's Exhibit Wire 2. This is
2 Call TT-2-1794, and the transcript is on Page 58 of the wire
3 tab of the transcript binders.

4 Mr. Lashley, can you see the screen next to you?

5 **A.** Yes.

6 **Q.** Can you just tell us what the date is here.

7 **A.** 7/9/2016.

8 **Q.** I'm going to play this call, but I'm going to start it at
9 about 1 minute and 32 seconds into the call. And it will start
10 about halfway down on the transcript.

11 (Audio was played but not reported.)

12 **BY MS. PERRY:**

13 **Q.** I'm going to pause it right there.

14 Mr. Lashley, did you recognize the people speaking in that
15 call?

16 **A.** Yes.

17 **Q.** Who was speaking in that call?

18 **A.** The guy Jakey and me.

19 **Q.** And did you hear when Jakey said, "Where's Melvin?"

20 **A.** Yes.

21 **Q.** Who was he talking about?

22 **A.** My brother.

23 **Q.** And you said that me and T-Roy standing right here.

24 What were you doing?

25 **A.** Just was outside -- outside that day.

1 Q. And here you said [reading]: Droid walking over towards
2 the Subway.

3 Who were you talking about then?

4 A. T-Roy.

5 Q. Is Droid another name that you knew for T-Roy?

6 A. Yes.

7 Q. Now, I'm just going to show you IND-12.

8 Who is that?

9 A. That's Jakey.

10 Q. And is that the other person in the call with you?

11 A. Yes.

12 Q. Mr. Lashley, was T-Roy a 5200 boy?

13 A. Yes, I would consider him one.

14 Q. And did you ever see T-Roy with Gutta?

15 A. Yes.

16 Q. How many times?

17 A. A few times.

18 Q. And turning back to Jakey for a second, was Jakey a member
19 of MMP?

20 A. Yes.

21 Q. How did you know?

22 A. 'Cause I always -- I'm always around.

23 Q. Now, I want to turn back for a minute and talk about the
24 Gwynn Oak area of MMP's territory.

25 Have you ever been to that -- we talked about that you've

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1 been to that area before.

2 Can you describe that area for us.

3 **A.** Just another neighborhood, drugs and stuff being sold.

4 **Q.** What kind of drugs did you see sold there?

5 **A.** Coke and ready, cocaine and "heron," both.

6 **Q.** I'm going to show you again IND-7.

7 **MR. SARDELLI:** Objection, Your Honor. Can we have a
8 time frame?

9 **THE COURT:** All right.

10 **BY MS. PERRY:**

11 **Q.** Mr. Lashley, what time frame were you in the Gwynn Oak
12 area?

13 **A.** From like 2015, '17.

14 **Q.** Now, I want to show you Government's Exhibit IND-7.

15 Remind us who this is.

16 **A.** Dirt.

17 **Q.** When did you first meet Dirt?

18 **A.** A couple years back. A couple years ago.

19 **Q.** Can you give us an approximate year.

20 **A.** Around, like, 2010.

21 **Q.** And how did you meet him?

22 **A.** My brother introduced me to him.

23 **Q.** And was Dirt a member of MMP?

24 **A.** Yes.

25 **Q.** How do you know?

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1 **A.** Through -- I heard it from a couple guys.

2 **Q.** Did you ever have a conversation with another --

3 **MR. SARDELLI:** Objection, Your Honor. Hearsay, unless
4 he can establish an exception.

5 **BY MS. PERRY:**

6 **Q.** Who did you hear it from?

7 **A.** My brother told me. Just guys in the neighborhood.

8 **Q.** And were the guys in the neighborhood members of MMP?

9 **A.** Yes.

10 **Q.** Now, Mr. Lashley, did you ever have a conversation with
11 another member of MMP about how Dirt made money?

12 **A.** Can you repeat that.

13 **Q.** Did you ever talk to your brother about how Dirt made
14 money?

15 **A.** Maybe once before.

16 **Q.** And what did your brother tell you?

17 **A.** I actually -- he asked me to take him to buy something
18 from Dirt one time.

19 **Q.** Tell us about that particular time.

20 First of all, what time frame are we talking about?

21 **A.** Around 2010, '11.

22 **Q.** And in that time frame, what did your brother ask you to
23 do?

24 **MR. SARDELLI:** Objection. May we approach?

25 **THE COURT:** Okay.

1 (Bench conference on the record:

2 **MR. SARDELLI:** I think without more specificity, that
3 may be outside the time frame of the conspiracy.

4 **MS. PERRY:** The charged conspiracy does begin in 2011,
5 Your Honor.

6 Though I believe he's testified that it was in 2010 or
7 2011, even if it were just before the conspiracy started, it
8 would still be intrinsic.

9 **THE COURT:** 2010 to 2011 is what he has just said.
10 And even if it's 2010, it's immediately prior and it's
11 certainly relevant evidence to establish what's going on in
12 2011 when the conspiracy starts.

13 **MR. SARDELLI:** Yeah. Thank you, Your Honor.)

14 (Bench conference concluded.)

15 **BY MS. PERRY:**

16 **Q.** Mr. Lashley, I believe you were about to tell us about a
17 time that you and your brother went to meet Dirt?

18 **A.** Yes.

19 **Q.** Tell us about that time. What happened?

20 **A.** My brother just asked me to drive him so that he can meet
21 up with him.

22 **Q.** And where did you -- did you agree to do that?

23 **A.** Yes.

24 **Q.** And where did you and your brother go?

25 **A.** Around the Gwynn Oak area.

1 Q. And do you remember specific streets in that area?

2 A. Yes; it was Gwynn Oak, Gwynn Oak and Rogers.

3 Q. And when you got to Gwynn Oak and Rogers, what happened?

4 A. I let my brother out the car so we can get what he was
5 gettin'.

6 Q. And when you let your brother out of the car, did you see
7 anyone else you recognized around?

8 A. Just Dirt.

9 Q. Where was Dirt?

10 A. Standin' on the porch.

11 Q. And when your brother got out of the car, where did he go?

12 A. Into a house with him.

13 Q. Into a house -- did you say with him?

14 A. Yes.

15 Q. And you mean with Dirt?

16 A. Yes.

17 Q. And did there come a time when your brother came back out
18 of the house?

19 A. Yes.

20 Q. And when he came back out, what happened?

21 A. He got in the car and we left.

22 Q. And when you got in the car, did he tell you what happened
23 inside?

24 A. I mean, I knew why he was going there. He basically just
25 bought something, bought some cocaine.

1 Q. And did he show you what he had bought?

2 A. Yes.

3 Q. What was it?

4 A. A quarter, like a quarter cocaine.

5 Q. When you say "a quarter," do you mean a quarter ounce of
6 cocaine?

7 A. Yes.

8 Q. Now, Mr. Lashley, was there a time when you and Dirt were
9 detained together?

10 A. Yes.

11 Q. When was that?

12 A. 2017.

13 Q. And where were you detained with Dirt?

14 A. Chesapeake Supermax facility.

15 Q. Was that the Chesapeake Detention Facility?

16 A. Yes.

17 Q. And did you and -- did you talk to Dirt during this time?

18 A. Yes. We would go outside sometimes.

19 Q. And what did Dirt tell you when you talked to him at the
20 Chesapeake Detention Facility?

21 A. We once talked about the guy Mookie who had got killed.

22 Q. And what did Dirt tell you?

23 A. Basically was trying to find out who had done it.

24 Q. And did he tell you why he was trying to find out?

25 A. I guess to retaliate.

1 **MR. SARDELLI:** Objection; speculation.

2 **THE COURT:** If you want to clarify that.

3 **BY MS. PERRY:**

4 **Q.** Mr. Lashley, did he tell you what he was trying -- what
5 did he tell you he was trying to figure out?

6 **A.** Basically, find out who had killed the guy.

7 **Q.** Now, I want to turn back to --

8 **THE COURT:** Strike the rest of the answer.

9 **BY MS. PERRY:**

10 **Q.** I want to turn back to the Windsor Mill area.

11 Who did you primarily hang out with in that area?

12 **A.** Mainly Reese; my brother, of course. There's a few guys.

13 **Q.** I'm going to show you Government's Exhibit IND-19.

14 Do you recognize this person?

15 **A.** Yes.

16 **Q.** Who is that?

17 **A.** Creams.

18 **Q.** And did you hang out with Creams in the area of
19 Windsor Mill and Forest Park?

20 **A.** Yeah, sometimes, yes.

21 **Q.** And do you see Creams in the courtroom today?

22 **A.** Yes; standin' behind you.

23 **Q.** Was Creams a member of MMP?

24 **A.** Yes.

25 **Q.** How do you know?

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1 **A.** Just from in the neighborhood with him.

2 **Q.** And did you see Creams out in the area of Windsor Mill and
3 Forest Park?

4 **A.** Yes.

5 **Q.** And when you saw him out there, what was he doing?

6 **A.** Selling drugs.

7 **Q.** What did you see him selling?

8 **A.** I mean, everyone pretty much sold "heron."

9 **Q.** Now, did you see Creams interacting with customers, or was
10 he a supplier?

11 **A.** It was customers.

12 **Q.** Did you ever see Creams with a car?

13 **A.** With a car?

14 **Q.** Uh-huh.

15 **A.** Yes.

16 **Q.** What kind of car did Creams have?

17 **A.** He had a few cars. An Acura one time. Drove a lot of
18 rental cars sometimes.

19 **Q.** And were you ever in or around Creams when he was near his
20 car?

21 **A.** Yes.

22 **Q.** And could you see what he kept in the car?

23 **A.** Guns.

24 **Q.** Can you describe any guns you saw in Creams' car?

25 **A.** How many?

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1 Q. Can you describe them, what you saw in Creams' car.

2 A. Handguns, machine guns, guns.

3 Q. Did you know of any specific gun he had in his car?

4 MR. HAZLEHURST: Objection. It's been asked and
5 answered, Your Honor.

6 THE COURT: Overruled.

7 BY MS. PERRY:

8 Q. You can answer, Mr. Lashley.

9 A. What was the question again?

10 Q. Did you ever see any specific guns?

11 A. A couple times like a machine gun, handguns.

12 Q. Now, I want to talk specifically about an incident around
13 the spring or summer of 2015.

14 Did there come a time when you observed Creams use a gun
15 near the BP gas station?

16 A. Yes.

17 Q. First of all, what time of day was it?

18 A. You say what time?

19 Q. Uh-huh.

20 A. It was early daylight time.

21 Q. And where were you on that day?

22 A. Outside sittin' on -- across the street from the BP.

23 Q. I'm going to show you MAP-34 again.

24 Can you see that, Mr. Lashley?

25 A. Yes.

1 Q. Can you use the screen and show us where you were.

2 A. Like right here (indicating). Right across from the BP.

3 Q. And if you could just touch it on the screen, it should
4 make a mark.

5 Oh, maybe you did. Sorry.

6 Oh, so you're over near the ball fields?

7 A. Yes.

8 Q. And while you were over there, what did you see happen?

9 A. There was an incident that happened one day, and pretty
10 much Creams was shootin', shootin' at a car.

11 Q. Can you tell us specifically where you saw Creams when he
12 was shooting.

13 A. He was inside a car at the intersection.

14 Q. And could you see where he was in the car?

15 A. The passenger seat.

16 Q. And what did you see him doing?

17 A. Shootin'.

18 Q. Could you tell what kind of gun he had.

19 A. I don't know exactly the kind, but like a machine gun.

20 Q. And could you hear the gunshots?

21 A. Yes.

22 Q. And could you see what he was shooting at?

23 A. Another car.

24 Q. After you heard the gunshots and saw this happening, what
25 did you do?

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1 **A.** I actually left the area.

2 **Q.** And after the incident, did you have any conversations
3 with anyone about what had happened?

4 **A.** Yes; later that day.

5 **Q.** Who did you talk to?

6 **A.** The guy Kane pretty much was lettin' me know what had
7 happened earlier that day.

8 **Q.** And what did Kane tell you?

9 **A.** He told me exactly what happened. But --

10 **MR. HAZLEHURST:** Objection.

11 **THE WITNESS:** -- I was out there, so I knew what
12 happened.

13 **MR. HAZLEHURST:** It's hearsay, Your Honor.

14 **BY MS. PERRY:**

15 **Q.** Mr. Lashley, who is Kane?

16 **A.** Another member of the gang.

17 **Q.** Was he a member of MMP?

18 **A.** Yes.

19 **Q.** How do you know?

20 **A.** Just from being introduced to him.

21 **Q.** And what did Kane tell you?

22 **A.** Oh, he told me that -- he asked me did I know what
23 happened --

24 **MR. HAZLEHURST:** Objection.

25 **THE COURT:** Do you want to come up to the bench.

1 (Bench conference on the record:

2 **MR. HAZLEHURST:** Your Honor, I just would note the
3 objection as to hearsay. I don't think this is in furtherance
4 of the conspiracy, so I'm just going to make it as a general
5 hearsay objection under 803.

6 **THE COURT:** Okay. So Kane, I think, has come into
7 evidence before on a number of occasions as being a member
8 of -- certainly could be found to have been a member of the
9 conspiracy. Clearly this is during the time of the alleged
10 conspiracy.

11 And what is your proffer as to how it's in furtherance
12 of the conspiracy?

13 **MS. PERRY:** Your Honor, at this point the individuals
14 who were a part of the conspiracy, members of the gang, were
15 informing each other about the status of the gang.

16 I believe that Mr. Lashley is going to testify that
17 the shooting was in retaliation for another member being robbed
18 at the gas station, and so the informing of that is certainly
19 in furtherance of the conspiracy.

20 **THE COURT:** Okay. All right. The objection is
21 overruled.

22 **MR. HAZLEHURST:** Your Honor, I just have a continuing
23 objection to this line of questioning as to this particular --

24 **THE COURT:** About what Kane said?

25 **MR. HAZLEHURST:** Exactly.

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1 **THE COURT:** Okay.

2 **MR. HAZLEHURST:** Your Honor, Mr. Enzinna just pointed
3 out, and I think it actually is correct -- the blind seeing the
4 forest sometimes -- that Kane was identified as someone who was
5 BGF, Black Guerilla Family, who is not someone who was alleged
6 to be a part of MMP.

7 **MS. PERRY:** Are you talking about Kane?

8 Your Honor, that's not my memory of that testimony.
9 Kane came up on the Nutty B shooting. He's in the video of the
10 Nutty B shooting assisting Brian Johnson, Nutty B. I believe
11 he's been -- testified as a member of MMP.

12 **MS. HOFFMAN:** Yeah.

13 **MS. PERRY:** And I believe that Mr. Banks testified
14 that he was a member of MMP.

15 **THE COURT:** And certainly this witness just did.

16 **MS. PERRY:** Correct.

17 **MR. HAZLEHURST:** I just wanted to make sure the record
18 is complete.

19 Thank you, Your Honor.)

20 (Bench conference concluded.)

21 **BY MS. PERRY:**

22 **Q.** Mr. Lashley, you were just about to tell us what Kane told
23 you.

24 **A.** He basically asked me what had happened that day or did I
25 know what happened that day, and we talked about what happened.

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1 Q. And did he tell you why it happened?

2 A. I already knew why.

3 Q. Why did it happen?

4 A. It was a -- a incident that had happened --

5 MS. WHALEN: Objection, Your Honor; basis of
6 knowledge.

7 THE COURT: Basis of knowledge.

8 BY MS. PERRY:

9 Q. How did you know why it happened?

10 A. I was out there that day.

11 Q. And had you been at the BP gas station earlier?

12 A. Yes.

13 Q. And when you were at the BP gas station, what did you see
14 happen?

15 A. It was a guy that had came up there that day, and he
16 pulled a gun out on another member of the gang. And pretty
17 much that was the reason -- that was the reason why.

18 Q. Who did he pull the gun out on?

19 A. Nutty B.

20 Q. I'm going to show you Government's Exhibit IND-51.

21 Who is that?

22 A. That's Nutty B.

23 Q. I'm going to show you IND-61.

24 Who is that?

25 A. That's the guy Kane.

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1 Q. Now, I want to switch gears for a second and play you a
2 call which has come into evidence on
3 Government's Exhibit JAIL-1. This is J-66, and the transcript
4 is on Page 217.

5 I'm going to start by playing you just from 2 minutes and
6 9 seconds in.

7 (Audio was played but not reported.)

8 MS. PERRY: I'm going to jump ahead about 30 seconds.

9 (Audio was played but not reported.)

10 BY MS. PERRY:

11 Q. I'm going to pause it there. Mr. Lashley, did you
12 recognize the people speaking on this call?

13 A. Yes.

14 Q. Who was speaking in the call?

15 A. Me and Reese.

16 Q. And, again, I'm going to show you IND-69.

17 Who is that?

18 A. That's Reese.

19 Q. And did you hear -- I'm going to move back up to the
20 beginning.

21 Do you hear when you were talking about GG?

22 A. Who?

23 Q. GG.

24 A. Yeah.

25 Q. Who is that?

1 **A.** That's just another name for Mal.

2 **Q.** I'm going to show you IND-80.

3 Who is that?

4 **A.** Mal.

5 **Q.** And was Mal a member of MMP?

6 **A.** Yes.

7 **Q.** How do you know?

8 **A.** From being around him a lot.

9 **Q.** And what were you and Reese talking about? What were you
10 telling Reese?

11 **A.** Pretty much that we was trying -- still out after they
12 had -- everything had slowed up. We was still out trying to
13 make money.

14 **Q.** I'm going to come back to that in a second.

15 But did you hear when you were talking about Syd? Did you
16 hear when you were talking about Syd?

17 **A.** Yeah, said something.

18 **Q.** And showing you IND-32.

19 Who is that?

20 **A.** That's Syd.

21 **Q.** Now, I want to flip down to the second page of the
22 transcript.

23 Now, looking up here at the top of the transcript, you
24 said that you were around the way trying to get it back.

25 Do you remember hearing that?

1 A. Yes.

2 Q. What were you talking about? What was going on in
3 Windsor Mill-Forest Park at that time?

4 A. That the stores was closed down and --

5 Q. What stores had closed down?

6 A. The gas station.

7 Q. What had happened to the gas station?

8 A. The stores got shut down.

9 Q. And when the stores got shut down, what happened to the
10 people who operated in that area?

11 A. People start, like, going other places, you know.

12 Q. And did there come a time when the stores opened back up?

13 A. Yes.

14 Q. And what happened when the stores opened back up?

15 A. Basically, we was still out trying, you know, to get
16 everything back runnin'.

17 Q. And so when you say here that you were "out trying to get
18 the, uh, whities," what did you mean? What's a whitey?

19 A. Talkin' about, like, sales, customers.

20 Q. And then later in that same portion, you said [reading]:
21 Talkin' about fuck phone play, we stoppin' the traffic.

22 What did you mean?

23 A. Just like catchin' sales as they ride up.

24 Q. And then you said [reading]: The girl picking back up.

25 What's "girl"?

1 A. It's another word for cocaine.

2 Q. And when you said it's picking back up, what did you mean?

3 A. Like, the money's startin' to come.

4 Q. I'm going to go back to the call and jump ahead to
5 25:15 in the call.

6 (Audio was played but not reported.)

7 BY MS. PERRY:

8 Q. Mr. Lashley, first of all, when you said -- when Reese
9 said that it was hot around there, what did that mean?

10 A. He was talkin' about, like, polices.

11 Q. And what did you tell him?

12 A. That polices was out.

13 Q. You said, I think, that there were five timeouts around
14 here. What's a timeout?

15 A. Another polices.

16 Q. And then you said [reading]: One of the blickies came up
17 missing today.

18 Do you remember hearing that?

19 A. Yes.

20 Q. What's a blicky?

21 A. A gun.

22 Q. And what were you telling Reese?

23 A. You said what was I telling him?

24 Q. Uh-huh.

25 A. That, basically, the gun came up missin'.

1 Q. And where had the gun been?

2 A. In the Laundromat.

3 Q. Where's the Laundromat?

4 A. Around the apartments in the neighborhood.

5 Q. And do you remember this conversation?

6 A. Yes.

7 Q. And do you remember earlier that day, had you seen someone
8 go into the Laundromat?

9 A. Yeah.

10 Q. Who did you see go into the Laundromat?

11 A. Creams.

12 Q. And what did you see Creams do in the Laundromat?

13 A. He put the gun up, and we walked to the store.

14 Q. And after the police came by that day, did you have any
15 conversation with Creams?

16 A. After the police came by?

17 Q. Uh-huh.

18 A. I mean, we was out there for a little bit that day, but we
19 might have went separate ways.

20 Q. And did you know whose gun came up missing?

21 A. It was Creams'.

22 Q. How did you know that?

23 A. I was with him when he put it up.

24 Q. Now, I want to play you --

25 THE COURT: If you want to let me know when you're

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1 at -- we might want to take a mid-afternoon break.

2 **MS. PERRY:** Sure. We can do that now, Your Honor.

3 **THE COURT:** All right. Thank you. We'll start by
4 excusing the jury.

5 (Jury left the courtroom at 3:50 p.m.)

6 **THE COURT:** We'll excuse the witness.

7 All right. We'll excuse the gallery.

8 (Pause.)

9 **THE COURT:** I think at this point everybody in the
10 gallery.

11 Okay. We'll take the mid-afternoon recess.

12 (Recess taken.)

13 **THE COURT:** All right. We'll get the jury in.

14 **THE MARSHAL:** Your Honor, would you like the witness
15 out?

16 **THE COURT:** Sure. We can get the witness, too.

17 (Jury entered the courtroom at 4:12 p.m.)

18 (Pause.)

19 **THE CLERK:** Mr. Lashley, you're still under oath. I
20 need you to speak directly into the microphone, please.

21 **THE COURT:** All right. If you want to continue,
22 Ms. Perry.

23 **MS. PERRY:** Thank you, Your Honor.

24 **BY MS. PERRY:**

25 **Q.** Mr. Lashley, I'm going to play you one more call. This is

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1 Government's Exhibit TT-3-3533. It is on Page 112 of the wire
2 call tab of the transcript binders.

3 (Audio was played but not reported.)

4 **BY MS. PERRY:**

5 **Q.** Mr. Lashley, did you recognize the voices on that call?

6 **A.** Yes.

7 **Q.** Who was speaking?

8 **A.** T-Roy and Creams.

9 **Q.** Now, I want to pull up the transcript for a second. This
10 is TT-3-3533.

11 Can you just read the number here (indicating).

12 **A.** (667) 228-4194.

13 **Q.** And did you hear when an individual on the call said
14 "sister tip"?

15 **A.** Yes.

16 **Q.** What does that mean?

17 **A.** Another word for "girl," like "cocaine."

18 **Q.** Now, Mr. Lashley, I want to turn your attention to an
19 individual you mentioned earlier. I'm going to show you
20 Government's Exhibit IND-32.

21 Who is this?

22 **A.** Syd.

23 **Q.** And was Syd someone that you -- you already told us that
24 Syd was someone who supplied you with heroin on at least one
25 occasion.

1 Did you hang out with Syd?

2 A. Yeah, sometimes.

3 Q. And when you saw Syd, what area would you be in?

4 A. The 5200 area.

5 Q. And when you saw Syd, what was he doing?

6 A. Just hangin' out, sellin' drugs.

7 Q. What kind of drugs did you see him sell?

8 A. Heroin.

9 Q. And was he hitting people off, like interacting with
10 customers, or was he a supplier?

11 A. A little of both.

12 Q. Now, Mr. Lashley, did you ever hear Syd give drug buyers a
13 different name?

14 A. Yes.

15 Q. What did he -- what name did he give drug customers?

16 A. Perry.

17 Q. Now, I want to talk about -- I want to direct your
18 attention to August of 2016.

19 Do you recall a time when you saw Syd on a dirt bike
20 around Dickey Hill?

21 A. Yes.

22 Q. Can you describe, first, what you were doing on that
23 particular day.

24 A. We just was all outside. It was a nice day.

25 Q. And when you said "we," who were you with?

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1 A. It was a lot of us. Me, my brother, and Creams was out
2 there. Another guy Ed was out there. It was a lot of us.

3 Q. And where were you?

4 A. Around Dickey Hill.

5 Q. I'm going to show you MAP-34.

6 Can you show us using the map around where you were.

7 A. (Witness complies.)

8 Q. And while you were there, what happened with respect to
9 Syd? Did you see Syd that day?

10 A. Yes. He was outside with us.

11 Q. And what was he doing?

12 A. We was ridin' a dirt bike.

13 Q. Do you remember what the dirt bike looked like?

14 A. It was a couple -- I think it was a green and white one,
15 but we had a couple dirt bikes out there around that day.

16 Q. And did you see Syd on dirt bikes on other occasions
17 besides this one?

18 A. Yeah.

19 Q. How often?

20 A. I mean, whenever it was a nice day, the dirt bike came
21 out.

22 Q. Now, on this particular day when you were hanging out with
23 your brother and Creams and Syd, do you recall a conversation
24 you had with Syd?

25 A. That day -- oh, he was just talkin' about -- well,

1 after -- that same day he got chased on a dirt bike, so he was
2 talkin' about how he got chased.

3 Q. So let me talk about before he got -- before that
4 incident.

5 When you were -- when you first were out there hanging out
6 with Syd, was he carrying anything?

7 A. He had a gun.

8 Q. And where -- how do you know he had a gun?

9 A. Because I "seened" it.

10 Q. What do you mean you "seened" it? What happened?

11 A. He had it out.

12 Q. And do you know where he took it out of?

13 A. A book bag.

14 Q. And do you recall what the gun looked like?

15 A. Just a handgun, black handgun.

16 Q. And after he showed you the black gun, what happened?

17 A. He rolled off on a dirt bike.

18 Q. And did there come a time when he came back?

19 A. Yes.

20 Q. About how long after was that?

21 A. Probably about 20 minutes.

22 Q. And what happened when he came back?

23 A. He wasn't on the dirt bike no more. He was sayin' he got
24 chased.

25 Q. Did he tell you who chased him?

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1 **A.** The police was chasin' him.

2 **Q.** Did he tell you anything else?

3 **A.** That he had to throw the book bag. He was worried about
4 if the police had found it or not.

5 **Q.** Now, Mr. Lashley, do you know someone who went by the name
6 of Uncle Rick?

7 **A.** Yes.

8 **Q.** When did you meet Uncle Rick?

9 **A.** A few years back.

10 **Q.** And was Uncle Rick a member of MMP?

11 **A.** No.

12 **Q.** Who introduced you to Uncle Rick?

13 **A.** When we was outside, first, the guy Huggie introduced me
14 to him.

15 **Q.** I'm going to show you Government's Exhibit IND-50.

16 Who is that?

17 **A.** Huggie.

18 **Q.** And was Huggie a member of MMP?

19 **A.** Not that I know of.

20 **Q.** How did you know Huggie?

21 **A.** Just from being in the neighborhood for years.

22 **Q.** Was Huggie a 5200 boy?

23 **A.** Yes, you could say that.

24 **Q.** And you said that Huggie introduced you to Uncle Rick?

25 **A.** Yes.

1 Q. What was Uncle Rick like?

2 A. If I would describe him, I would say flashy, flashy-type
3 guy.

4 Q. What do you mean by that?

5 A. Just flashy by -- just being flashy all the time.

6 Q. Did you know Rick to have money?

7 A. Yes.

8 Q. And why do you -- how do you -- how did you know that?

9 A. He always pulled it out sometimes.

10 Q. And did you know about a time when something happened to
11 Uncle Rick?

12 A. Yes.

13 Q. What happened to Uncle Rick?

14 A. Well, he got killed.

15 Q. Now, did you ever have a conversation with Syd about
16 Uncle Rick?

17 A. Yes.

18 Q. Who else was there when you had this conversation with
19 Syd?

20 A. It was a lot that was out there. Creams, Reese, my
21 brother was outside with us.

22 Q. And where did you have this conversation with Syd about
23 Uncle Rick?

24 A. We was around Dickey Hill, like in the apartment area.

25 Q. And what did Syd say?

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1 A. Well, on this particular day, he was sayin' how he wanted
2 to get him, like kidnap him or whatever.

3 Q. Did he say how he was going to do it?

4 A. No. He just said he wanted to kidnap him.

5 Q. And a short time after that, did you hear that something
6 happened to Uncle Rick?

7 A. Probably like two days later, two, three days later.

8 Q. And who did you learn it from?

9 A. My brother told me, matter of fact.

10 Q. And what did your brother tell you?

11 A. He just told me that he had got killed.

12 Q. Did you talk to Syd after that, after you learned that
13 Uncle Rick had been killed?

14 A. Yeah. One day we was all outside and another day we was
15 outside together.

16 Q. And about how long after you learned about Uncle Rick
17 getting killed did you have this second conversation with Syd?

18 A. Probably -- it was within that same week, about a couple
19 days later.

20 Q. Now, before I get to this conversation, I want to go back
21 to the earlier conversation.

22 Did Syd tell you why he wanted to get Uncle Rick?

23 A. That -- I guess he was trying -- he -- Uncle Rick was
24 known to have a lot of drugs, so I guess he wanted the drugs.

25 Q. Now, going back to this second conversation after you

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1 learned that Uncle Rick had been killed, you said that you had
2 a conversation a couple days later with Syd.

3 What did he tell you then?

4 A. We was outside. And I just heard him say, like, he had
5 got him, basically saying he got him.

6 Q. Did you notice anything different about Syd after you
7 learned that Uncle Rick had been killed?

8 A. Not that he just -- he had a lot of drugs after that time.

9 Q. What do you mean he had a lot of drugs? What kind of
10 drugs did he have?

11 A. Heroin.

12 Q. And what was he doing with the heroin?

13 A. Trying to get rid of it.

14 Q. And when you say "trying to get rid of it," who was he
15 trying to get rid of it to? Who was he trying to give it to?

16 A. Basically, anyone that was trying to buy or, you know,
17 whoever wanted some.

18 Q. And are you talking about customers, or are you talking
19 about other people who sold in the area?

20 A. Both, but more the people that sold in the area.

21 Q. Now, you said he had a lot of drugs. Was it an unusual
22 amount for Syd?

23 A. Yes; it was a lot.

24 Q. About how much was it?

25 A. I don't know exactly a specific, like, number, but it was

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1 a big bag. It was a lot.

2 Q. And how close in -- when was it about that you saw Syd
3 with this large amount of heroin?

4 A. You say when?

5 Q. Uh-huh. When in relation to when you learned about Rick's
6 murder?

7 A. Oh, like a few days later.

8 Q. Around the same time that you had the conversation with
9 him?

10 A. Yes.

11 Q. Now, Mr. Lashley, I'm going to move on and go back to
12 Government's Exhibit Wire 2 and play you a call. This is
13 TT-2-2365, and the transcript's on Page 65.

14 Before I play the call, can you just tell us the date of
15 this call.

16 A. 7/13/2016.

17 Q. Now, I'm going to play the call, but I am going to jump to
18 10 minutes and 55 seconds into the call, so it will start on
19 the top of Page 72 of the transcript binders.

20 (Audio was played but not reported.)

21 BY MS. PERRY:

22 Q. I'm going to pause it there.

23 Did you recognize who was speaking in this particular
24 call?

25 A. Yeah. That was me on the jail call.

1 Q. And who were you talking to?

2 A. My homeboy Ratty.

3 Q. And what were you talking about?

4 A. Oh, what had happened about the stores being shut down.

5 Q. And so this is, again, around the time that the gas
6 station had been shut down?

7 A. Yes.

8 Q. And you said [reading]: Yeah, only me, Fred, and Mel be
9 out.

10 Do you remember hearing that?

11 A. Yes.

12 Q. Who's Fred?

13 A. Jakey.

14 Q. Fred is another name for Jakey?

15 A. Yes.

16 Q. And when you said "Mel," who is that?

17 A. My brother.

18 Q. Now, I want to just jump down a little bit to 12 minutes
19 and 5 seconds into the call, so it's just a few lines down on
20 the transcript.

21 (Audio was played but not reported.)

22 BY MS. PERRY:

23 Q. I'm going to stop it there.

24 Did you hear when the other person on the call said, "I
25 heard big man got booked again"?

1 A. Yes.

2 Q. Who were you talking about?

3 A. He was asking -- talkin' about Gutta.

4 Q. I'm going to come back to Gutta in a second, but I'm going
5 to skip ahead again in the call and play about 13:35 into the
6 call. And it's going to be on the next page of the transcript,
7 starting towards the bottom.

8 (Audio was played but not reported.)

9 BY MS. PERRY:

10 Q. I'm going to pause it there.

11 Did you hear where you said that Syd was down at
12 Bennett Place?

13 A. Yes.

14 Q. What were you referring to?

15 A. The block that he be on.

16 Q. And is that the block that you went to him with when he
17 supplies you with heroin?

18 A. Yes.

19 Q. Now, I want to just back up and ask you one more question
20 about Syd.

21 You said earlier that Syd came around; he had a large
22 amount of heroin; and that you -- he was giving it to people in
23 the area.

24 Was he giving it to other members of MMP and the
25 5200 boys?

1 **A.** Yes.

2 **Q.** Now, did you also hear in this particular call where you
3 said [reading]: Me, Mel, and Fred be out every day. The two
4 of them, they got the girl right now. I'm the only one really
5 with the boy?

6 **A.** Yes.

7 **Q.** What were you talking about?

8 **A.** Cocaine and heroin.

9 **Q.** And so who had the cocaine?

10 **A.** Fred and Mel.

11 **Q.** And then you said you had the boy, and you were referring
12 to heroin?

13 **A.** Yes.

14 **Q.** Now, I want to back up a bit and talk about Gutta.

15 I'm going to show you again IND-3.

16 Remind us who that is.

17 **A.** Yes. That's Gutta.

18 **Q.** And where did you see Gutta operating? Where did you see
19 Gutta?

20 **A.** In the 5200 area.

21 **Q.** And how did Gutta make money?

22 **A.** Drugs.

23 **Q.** Was he a hitter or a supplier?

24 **A.** I would say supplier.

25 **Q.** Did you ever see him supply anyone?

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- 1 **A.** One person that I knew of.
- 2 **Q.** Did you ever see Gutta carrying a gun?
- 3 **A.** Yes.
- 4 **Q.** When did you see him with a gun?
- 5 **A.** Like normal, every day.
- 6 **Q.** And where would he carry the gun?
- 7 **A.** On him and on his hip.
- 8 **Q.** What kind of gun did you see him with?
- 9 **A.** Handguns.
- 10 **Q.** Now, I want to show you again Government's Exhibit IND-51.
- 11 Remind us who this is.
- 12 **A.** Nutty B.
- 13 **Q.** And was Nutty B a member of MMP?
- 14 **A.** Yes.
- 15 **Q.** What happened to Nutty B?
- 16 **A.** He was killed.
- 17 **Q.** Where was he killed?
- 18 **A.** At the gas station.
- 19 **Q.** And where were you at the time that Nutty B was killed?
- 20 **A.** Across the street from the gas station.
- 21 **Q.** I'm going to pull up MAP-34 again.
- 22 Can you, using the map, tell us where you were at the time
- 23 that Nutty B was killed.
- 24 **A.** (Indicating.)
- 25 **Q.** Did you learn why Nutty B was killed?

1 A. Yes.

2 Q. From who?

3 A. The dude Kane.

4 Q. And when did you talk to Kane about Nutty B?

5 A. Like right after -- right after the situation happened.

6 Q. Tell us what happened.

7 A. I was sittin' in my car, and Kane came walkin' past. He,
8 like, was cryin'. He had tears in his eyes, and I asked him
9 what was wrong. And he got in the car with me and told me what
10 had happened.

11 Q. What did he tell you?

12 A. He said two dudes was asking for money for Gutta, and
13 Nutty B ain't give it to 'em. He said he ain't have it, and
14 the dude shot him.

15 Q. Did he tell you who shot Nutty B?

16 A. The dude Bino.

17 Q. I'm going to show you Government's Exhibit IND-53.
18 Who is that?

19 A. The dude Bino.

20 Q. And was Bino a member of MMP?

21 A. Yes.

22 Q. How do you know?

23 A. Just from him comin' around our neighborhood.

24 Q. Now, I want to show you Government's Exhibit IND-27.

25 Do you recognize this person?

~~MALCOLM LASHLEY - DIRECT~~

1 **A.** Yes, I know who he is.

2 **Q.** Who is that?

3 **A.** His name Bangout.

4 **Q.** And was Bangout a member of MMP?

5 **A.** Yes.

6 **Q.** How do you know?

7 **A.** My brother told me.

8 **Q.** Do you know what happened to Bangout?

9 **A.** He was killed.

10 **Q.** I'm going to show you Government's Exhibit IND-80.

11 Remind us who this is.

12 **A.** His name Mal.

13 **Q.** And was Mal a member of MMP?

14 **A.** Yes.

15 **Q.** How do you know that Mal was a member of MMP?

16 **A.** By being around him.

17 **Q.** And did there come a time when you had a conversation with
18 Mal about Bangout's death?

19 **A.** Yes.

20 **Q.** When in relation to Bangout's death did you have this
21 conversation?

22 **A.** The next day.

23 **Q.** The day after Bangout was killed?

24 **A.** Yes. I was with Mal the next day.

25 **Q.** And what did Mal tell you?

~~MALCOLM LASHLEY - CROSS~~

1 **A.** He told me he had just dropped Bangout off the same night
2 he got killed.

3 **Q.** And did he tell you where he dropped him off?

4 **A.** Yes. He said he dropped him off to Gutta.

5 **Q.** And did he tell you where?

6 **A.** Around Frederick, Frederick Road area.

7 **MS. PERRY:** Court's indulgence.

8 Thank you, Your Honor. Nothing further.

9 **THE COURT:** Okay. Thank you.

10 Ms. Whalen.

11 **MS. WHALEN:** Thank you, Your Honor.

12 CROSS-EXAMINATION

13 **BY MS. WHALEN:**

14 **Q.** Good afternoon, sir.

15 Mr. Lashley, when were you arrested in connection with
16 these charges?

17 **A.** June 8th, 2017.

18 **Q.** 2017?

19 **A.** Yes.

20 **Q.** Okay. And you were charged in this very same indictment
21 with dis -- excuse me, conspiracy to possess and distribute
22 drugs; right?

23 **A.** Yes.

24 **Q.** And you were charged in this very same indictment with a
25 RICO conspiracy, essentially; right?

1 A. Yes.

2 Q. And the charges about you stemmed from information that
3 the Government had; right?

4 A. Say that again.

5 Q. The charges and the discovery and the evidence against you
6 involved -- let me be more specific, wiretap calls where you
7 were talking about drugs; right?

8 A. Yes.

9 Q. Okay. And you were represented by an attorney; right?

10 A. Yes.

11 Q. And the -- there was also several different
12 controlled buys from you; right?

13 A. Yes.

14 Q. And they were actually where a police officer came and
15 bought drugs from you; right?

16 A. Yes. I later on found out he was a police.

17 Q. You didn't know it at the time, of course; right?

18 A. No.

19 Q. Okay. But, of course, that kind of information, they
20 really had you pretty good on drug dealing; right?

21 A. Yes.

22 Q. Okay. Pretty strong case against you; right?

23 A. Yes, I would say.

24 Q. All right. So it was back this past September, right,
25 that you cut a deal with the Government; right?

1 September 2018.

2 A. Yes.

3 Q. All right. So from the time you're arrested June of 2017
4 all the way until September 2018, you're working with your
5 lawyer, of course, on the case; right?

6 A. Right.

7 Q. Okay. And you had read the indictment; right?

8 A. Yes.

9 Q. And it was a long indictment; right?

10 A. Yes.

11 Q. And it actually set out each of the allegations against
12 you; right?

13 A. Yes.

14 Q. Okay. So it would even say things like, you know, he was
15 on a wiretap call talking about X, Y, and Z; right?

16 A. Yes.

17 Q. And it would say the dates in which you were dealing
18 drugs; correct? And where an undercover purchased from you;
19 right?

20 A. Right.

21 Q. And it also said allegations about murders; right?

22 A. Yes.

23 Q. So, for instance, the indictment specifically said that
24 Bino or -- do you know his real name, by the way?

25 A. I learned it once I got locked up.

~~MALCOLM LASHLEY - CROSS~~

1 Q. Dontray Johnson?

2 A. Yes.

3 Q. All right. But Gambino or Bino was the one that the
4 Government alleged killed Nutty B; right?

5 A. Say that again.

6 Q. The Government said in the indictment, or the indictment
7 alleged that Bino killed Nutty B; right?

8 A. Yes.

9 Q. And it actually said in there, and you read, that that was
10 an allegation because Bino was collecting money for
11 Dante Bailey; right?

12 A. Yes, I think it said that.

13 Q. Sure. It was that specific; right?

14 A. Yes.

15 Q. Okay. And then there was discovery that was given to you
16 and your lawyer; right?

17 A. Right.

18 Q. Let's maybe break that down a little bit.

19 Discovery are like police reports; right?

20 A. Yes.

21 Q. And maybe some statements and pictures and that kind of
22 thing; right?

23 A. What you mean by statements?

24 Q. Well, if there are statements by police or witnesses, that
25 kind of thing, you might have gotten some of that; right?

1 A. I don't think I seen any of that.

2 Q. Okay. And you did have the opportunity to review the
3 discovery provided; right?

4 A. Yes.

5 Q. And so you had the opportunity to review what the
6 discovery was about the killing of Nutty B; right?

7 A. Yes; basically what I already had knew.

8 Q. Okay. And you then also in the indictment saw that the
9 Government alleged in the indictment that Dante Bailey killed
10 Bangout; right?

11 A. I don't think I "seened" that.

12 Q. Would looking at it again refresh your recollection?

13 A. I guess, yes.

14 MS. WHALEN: Court's indulgence.

15 I'll have this marked for identification only
16 Defendant's 9, I believe.

17 May I approach?

18 THE COURT: Certainly.

19 BY MS. WHALEN:

20 Q. Let me just show you Page 44.

21 And, Mr. Lashley, if you look up top here, do you see the
22 "United States District Court"? Do you see "Second
23 Superseding Indictment"?

24 A. Yes.

25 Q. And do you see your name on it?

~~MALCOLM LASHLEY - CROSS~~

1 A. Yes.

2 Q. And do you see Mr. Bailey's name on it?

3 A. Yes.

4 Q. Okay. Now, let's go to this charge. Do you see -- and
5 I'm going to ask you to read it to yourself, please.

6 A. (Reviews document.)

7 Yes.

8 Q. Okay. Does that help you remember that right here in this
9 indictment, the Government alleged that Mr. Bailey killed
10 James Edwards?

11 A. Yes, that's what it said.

12 Q. Now, did you kill Bangout?

13 A. Absolutely not.

14 Q. Were you there when Bangout was killed?

15 A. No.

16 Q. Do you know -- well, strike that.

17 Did you see Mal kill Bangout?

18 A. No.

19 Q. Did you see anyone kill Bangout?

20 A. No.

21 Q. All right. And, you know, when violence happens on the
22 street, the killing of someone, word spreads, doesn't it?

23 A. Yes.

24 Q. Pretty fast; right?

25 A. Yes.

1 Q. And there's actually -- have you used murder_ink before?

2 A. No.

3 Q. Oh, okay. Have you heard of murder_ink?

4 A. Yes, I heard of it.

5 Q. I mean, it's sort of like -- I think it's like through
6 Instagram, you can actually pretty quickly look up what's being
7 put out there about a murder; right?

8 A. Well, I don't have a social media, so I don't be on it.

9 Q. All right. Have you seen others use that device?

10 A. Yes. I know about it, murder_ink.

11 Q. And is that -- do you know that to be one way information
12 spreads about a murder?

13 A. I mean, it lets you know who got killed on what day or
14 night.

15 Q. You mean you look up that on that --

16 A. You can see that on -- I didn't look it up, but you can
17 see it on murder_ink.

18 Q. Okay. And people talk; right?

19 A. Yes.

20 Q. All right. And, for instance, Mal might talk; right?

21 A. Yes.

22 Q. All right. And you've certainly heard information on the
23 street that was not accurate; right?

24 A. What you mean by that?

25 Q. Well, when people are talking -- let's be specific. When

~~MALCOLM LASHLEY - CROSS~~

1 people are talking about something that happened and it's
2 spreading, let's say a shooting, sometimes you hear inaccurate
3 information; right?

4 **A.** Right.

5 **Q.** And sometimes you actually hear outright lies; right?

6 **MS. PERRY:** Objection.

7 **THE COURT:** Stick with the inaccurate information.

8 **MS. WHALEN:** I'll withdraw that question, then,
9 Your Honor.

10 **BY MS. WHALEN:**

11 **Q.** And you don't go out and investigate to figure out whether
12 that inaccurate information that you have learned is true or
13 not; right?

14 **A.** This is just what I heard in the neighborhood --

15 **Q.** Okay.

16 **A.** -- from someone.

17 **Q.** And so what you heard in the neighborhood about Bangout
18 was what you told us about; right?

19 **A.** Exactly.

20 **Q.** Okay. And the incident with Nutty B, you indicated that
21 you were actually across the street; right?

22 **A.** Yes.

23 **Q.** But you didn't really see everything that went down, did
24 you?

25 **A.** No. I was across the street.

~~MALCOLM LASHLEY - CROSS~~

1 Q. Okay. So, again, you heard on the street some facts about
2 what might have happened to Nutty B; right?

3 A. Exactly.

4 Q. Now, you also knew that Dante Bailey did not tell
5 Sydni Frazier to kill Mr. Johnson?

6 MS. PERRY: Objection.

7 THE COURT: I'm sorry? Do you want to come up to the
8 bench.

9 (Bench conference on the record:

10 MS. PERRY: There is a note in the proffer report that
11 says that Mr. Lashley knew that, but it certainly calls for
12 speculation.

13 Mr. Lashley wasn't there. He has absolutely no idea.
14 It's just a speculative comment. I don't think there's any
15 real grounds for this particular line of cross-examination
16 about what Mr. Lashley believed about what happened to
17 Ricardo Johnson.

18 MS. WHALEN: It specifically says Mr. Frazier knew
19 that.

20 THE COURT: I have here [reading]: Lashley stated
21 that he knew Bailey did not tell Frazier to do it.

22 Do we know how he knew that?

23 MS. WHALEN: Well, I think I'm entitled to explore
24 that he knew that. That's what I'm doing.

25 THE COURT: Okay. Do you know how he knew that?

1 **MS. PERRY:** That's his -- my -- that is his belief.
2 He did not believe that Frazier would have done it on
3 Mr. Bailey's orders, but it is just Mr. Lashley's speculation
4 about what would have happened. It is not based on any sort of
5 facts. I mean, it's just -- I --

6 **THE COURT:** It seems to me she's entitled to at least
7 a few questions to figure out what his -- if he has a basis of
8 knowledge, what it is.

9 **MS. PERRY:** And if she establishes what he actually
10 knew about the murder, then I think that that's perfectly
11 appropriate.

12 **THE COURT:** So let's go ahead.

13 **MS. WHALEN:** I plan on asking what I just asked, is:
14 You knew that he did not give an order to kill Mr. Johnson.

15 **THE COURT:** And would there be a follow-up?

16 **MS. WHALEN:** I can ask a follow-up. Or redirect. I
17 think that's what redirect would be for.

18 **THE COURT:** Okay. What exactly is the question you
19 want to ask?

20 **MS. WHALEN:** I believe I said -- I believe I tried to
21 track exactly what, which is that you knew that Dante Bailey
22 did not order Sydni Frazier to kill Mr. Johnson.

23 **MS. PERRY:** There's just no basis of knowledge for
24 that question yet, and so I would ask if she's going to go
25 there, that she establish the basis of knowledge first.

1 **MS. WHALEN:** The basis is he told agents in a proffer
2 session that he knew that.

3 **MS. PERRY:** He also told us hearsay, but that doesn't
4 make it admissible.

5 **MS. WHALEN:** This is not hearsay. This is "I know
6 that."

7 **MS. PERRY:** But he --

8 **THE COURT:** I think that there's been a lot of
9 conversation about having a basis of knowledge established. I
10 think that applies across the board.

11 So if you ask simply that question, I think there
12 needs to be even how he knows it. Is this -- is there
13 something more than just "I don't think so because that's my
14 opinion of their character" or does he have some more specific
15 reason why he knows that?

16 **MS. WHALEN:** And, Your Honor, I can only go with what
17 the Government will give us about that. If they didn't ask
18 more, then I can't be speculative about it. I need to be able
19 to explore it in cross, and that's what I'm doing.

20 **THE COURT:** Okay. Why don't you ask the question that
21 you asked.)

22 (Bench conference concluded.)

23 **MS. WHALEN:** I can withdraw the question, Your Honor,
24 and ask it this way.

25 **BY MS. WHALEN:**

1 Q. You told the law enforcement agents when you met at a
2 proffer session and the Assistant United States Attorneys that
3 you knew that Mr. Bailey didn't order the killing of
4 Mr. Johnson; right?

5 A. Say that again.

6 Q. You told agents in a proffer session that you knew that
7 Mr. Bailey did not order Syd Frazier to kill Mr. Johnson?

8 A. I don't recall that. I don't recall saying that.

9 Q. Would reviewing anything help you to remember whether you
10 actually said that?

11 A. Yes.

12 MS. WHALEN: Okay. May I approach, Your Honor?

13 BY MS. WHALEN:

14 Q. Just for expediency, I'm going to ask you and not out loud
15 but to yourself to read this point right here (indicating).

16 A. (Reviews document.)

17 Okay.

18 Q. Does that help you remember --

19 A. Yes.

20 Q. -- whether you told them that?

21 A. Yes.

22 Q. And so now do you recall that you told them that
23 Mr. Bailey did not tell Syd to order or to kill Mr. Johnson?

24 A. Yes, I remember now.

25 Q. Now, you were asked some questions about why you were able

1 to actually sell drugs at the gas station, and you didn't
2 pay --

3 **MS. PERRY:** Objection, Your Honor.

4 May we approach again?

5 **THE COURT:** Okay.

6 (Bench conference on the record:

7 **MS. PERRY:** My apologies. I perhaps just
8 misunderstood the Court's ruling. I thought that the ruling
9 was that she would ask the question if she followed it up with
10 or basis of knowledge.

11 **MS. WHALEN:** I withdrew that question.

12 **THE COURT:** Yes. She asked it a different way. And
13 I -- if that's something you need to go into on redirect --

14 **MS. PERRY:** I understand.

15 **MS. WHALEN:** Lauren, there wasn't a problem with the
16 question that I just asked?

17 **MS. PERRY:** No.

18 **MS. WHALEN:** Okay.)

19 (Bench conference concluded.)

20 **BY MS. WHALEN:**

21 **Q.** Mr. Lashley, you were asked some questions about why you
22 were able to, even though you were not a member of MMP, sell
23 drugs in that area.

24 Do you recall those questions?

25 **A.** Yes.

1 Q. Okay. And you did not pay a tax to anyone; right?

2 A. No, no.

3 Q. Okay. And by that, "a tax," I mean you didn't have to pay
4 in order to sell drugs in the area; right?

5 A. No.

6 Q. And the area that we're talking about, Windsor Mill, in
7 that particular area, do you know if that used to be called
8 Forest Heights?

9 A. Yes.

10 Q. And from your time, from 2002 up until the present, was
11 the area pretty consistently an area that there was some drug
12 dealing going on?

13 A. Yes.

14 Q. Now, you mentioned that you would call -- and I think your
15 words were "I would say that Gutta was a supplier."

16 Do you remember saying that?

17 A. Yes.

18 Q. Okay. And you're saying that based on you think you saw
19 him supply one person; right?

20 A. I know for sure.

21 Q. Okay. But you're also saying that based on what you've
22 heard from other people; right?

23 A. Can you -- can you run that past me again.

24 Q. I guess what I'm -- let me ask it this way: People talk
25 out on the street about who's doing what and where; right?

1 A. Yes.

2 Q. Okay. And if you're sellin' drugs in a certain place, you
3 kind of try to make it your business to know what the word is,
4 what the story is, what the rumor is; right?

5 A. Yes.

6 Q. Okay. And so you had a lot of information for -- about
7 Gutta, not from Gutta himself; right?

8 A. Right.

9 Q. Okay. It was what people said and talked about; right?

10 A. I mean, everybody pretty -- know what's going on in the
11 neighborhood, so yes.

12 Q. Okay. And everybody thinks they know what's going on in
13 the neighborhood; right?

14 A. So if you say, yes.

15 Q. Well, wouldn't you agree that -- we already talked about
16 sometimes people get it wrong; right?

17 A. Yes.

18 Q. And you knew -- or did you know that Gutta was also
19 running a music business?

20 A. Yes, I know that too. Well, I know he raps.

21 Q. Okay. And do you rap?

22 A. No.

23 Q. All right. And you know there was a studio that he and
24 others went to to rap; right?

25 A. I don't know what studio he went to.

1 Q. Okay. So you never hung out with him at a studio, huh?

2 A. No.

3 Q. And did you ever rap with him?

4 A. No.

5 Q. Now, part of your plea agreement, sir, you told us about
6 and you were asked: What benefit do you expect to receive?

7 Do you remember that?

8 A. Yes.

9 Q. Okay. And what is it you're supposed to do?

10 And you said, I'm supposed to be truthful; right?

11 A. Right.

12 Q. Okay. So you went in to how many proffer sessions with
13 the Government?

14 A. I don't know. A couple.

15 Q. A couple times --

16 A. Yes.

17 Q. -- do you think?

18 Okay. And then were there times where you had questioning
19 in order or to prepare you to come into court today?

20 A. Say that again.

21 Q. Did you meet -- aside from the proffer sessions, the two
22 you think there were, did you also meet with Ms. Perry to
23 discuss your testimony today?

24 A. No.

25 Q. Like this morning you didn't meet with her?

1 A. Oh, yes, this morning.

2 Q. Okay. And you went over the questions that she would be
3 asking you; right?

4 A. We just talked about the information I told 'em.

5 Q. All right. And you know that -- you told us if you are
6 not truthful, your plea agreement could be changed and you
7 could face the maximum penalty.

8 Do you remember that?

9 A. Yes.

10 Q. And that's a lot of jail time; right?

11 A. Yes.

12 Q. Tell us how much jail time you could face if you do not
13 get -- or if you're not truthful. Let's put it that way.

14 A. The maximum penalty for whatever the charge carry.

15 Q. Okay. And what is that, do you know?

16 A. No.

17 MS. PERRY: Objection.

18 BY MS. WHALEN:

19 Q. Now, it's certainly a lot more time than you hope to
20 receive if you testify; right?

21 A. Yes.

22 Q. Okay. And so you meet with them. You tell them things
23 that you know; right?

24 A. Yes.

25 Q. And would you say that today you were fairly consistent,

1 fairly consistent with what you told them before?

2 **MS. PERRY:** Objection.

3 **THE COURT:** Overruled.

4 **THE WITNESS:** Can you say that again.

5 **BY MS. WHALEN:**

6 **Q.** Do you think what you testified to today was consistent
7 or, another word, similar to what you said to them before?

8 **A.** Yes.

9 **Q.** Okay. And so you fully expect that you will get the
10 benefit of your cooperation; right?

11 **A.** Meaning -- what you mean by that?

12 **Q.** That you're going to get less jail time.

13 **A.** I really don't know what I'm going to get.

14 **Q.** Okay. And I'm not asking that.

15 What I'm asking is: Based on your testimony today and
16 what you've done, you fully expect you're going to get less
17 jail time in the end?

18 **A.** I would hope so, yes, I guess.

19 **Q.** And it is your understanding of your plea that it is the
20 Assistant United States Attorneys that decide whether you are
21 being truthful and help you get that benefit; right?

22 **A.** Say it again.

23 **Q.** It's your understanding of your plea that it is Ms. Perry
24 and the Government who are the ones who decide whether you told
25 the truth today?

~~MALCOLM LASHLEY - CROSS~~

1 **A.** I thought it was up to the judge.

2 **Q.** Okay. And if you lie and your plea is pulled from you, it
3 is Ms. Perry and the Government that would do that; right?

4 **A.** I guess.

5 **MS. WHALEN:** Thank you, Mr. Lashley.

6 **THE COURT:** Can I see counsel on the schedule.

7 (Bench conference on the record:

8 **THE COURT:** Basically, it's 5 o'clock. I assume
9 there's going to be more cross-examination. So any reason he
10 can't be here Monday morning?

11 **MS. HOFFMAN:** I mean, if possible, we would request
12 that we keep going a little longer and try to get through the
13 cross-examination. I do think that --

14 **THE COURT:** But it's already 5 o'clock. There's five
15 more defense counsel, whatever it is.

16 **MS. AMATO:** There's five more, yes.

17 **THE COURT:** I think everyone's going to have cross,
18 and we're going to have redirect. I'm sorry. It's 5 o'clock.
19 I can't do that.

20 So I'm assuming, logistically, it will be Monday
21 morning. And I was actually going to tell the jury 10:30 just
22 in case we had some issues, maybe things we could put on the
23 record.)

24 (Bench conference concluded.)

25 **THE COURT:** All right, ladies and gentlemen. It's

1 already 5 o'clock. It does not appear reasonably likely that
2 we could finish the examination of this witness in just a few
3 more minutes.

4 So we're going to recess.

5 I'm going to start, actually, just by excusing the
6 witness.

7 (Witness excused.)

8 **THE COURT:** All right. And, ladies and gentlemen, we
9 are not sitting tomorrow.

10 Next week, at least as of the moment, I anticipate
11 that we will be in court Monday through Thursday. But I'll
12 definitely tell you Monday.

13 I think I may have some issues to discuss with
14 counsel, so I'm going to ask you all to come in at 10:30 on
15 Monday.

16 In the meantime, usual instructions: Leave your notes
17 here. Keep an open mind. Don't talk about the case.

18 Thank you very much. We are making progress. And we
19 will see you Monday morning at 10:30.

20 Thank you.

21 (Jury excused at 5 o'clock p.m.)

22 **THE COURT:** And at least briefly to put something on
23 the record, we have had some conversations about two
24 outstanding issues.

25 One had to do with the admissibility of certain GPS

1 data from a company called STOP.

2 Related to that was the issue of whether, if that
3 evidence is admitted, Special Agent Wilde would be permitted to
4 testify about that.

5 I believe that we, in conversation about that, were
6 able to resolve a piece of it in that if the GPS data is
7 admissible, defense counsel would not object to a fact witness
8 such as Special Agent Moore talking about the data and what the
9 GPS data showed.

10 There was an objection to it being
11 Special Agent Wilde, given his status as an expert.

12 And so I think that piece of it -- correct me if I'm
13 wrong -- was resolved in our conversations.

14 We have not completely resolved the question of --
15 because there are a couple of sets of data information. There
16 is the raw GPS data with a certification letter from
17 Ashley Foster --

18 **MS. PERRY:** Fuller.

19 **THE COURT:** -- Fuller. Three pages, very small
20 numbers, that's the raw GPS data.

21 There is, I believe, a second, different certification
22 letter of some kind as to another, longer document that lists
23 street addresses rather than raw GPS data. That is what the
24 Government had moved to exclude before trial because it says at
25 the bottom of the document, "This is not reliable."

1 So I'm not sure precisely where we are on the
2 certification issue, but that was something we were going to
3 try to resolve so that if there's going to be testimony about
4 it next week, it can be through not Special Agent Wilde but
5 another government agent.

6 So up until that point, any disagreement with just
7 sort of my summary of where I think we are?

8 Mr. Enzinna?

9 **MR. ENZINNA:** No, Your Honor. I think that's correct.

10 We would like to use the second set of GPS data, the
11 enrollee track record, which is certified by
12 Danielle Winchester. We would like to use that in
13 cross-examining whoever testifies about the raw GPS data.

14 But we're waiting on your ruling on the Government's
15 motion to exclude it.

16 **THE COURT:** Okay. All right. Assume, hypothetically,
17 that I granted the Government's motion to exclude as to the
18 second set.

19 Are you still in agreement that the Fuller
20 certification is sufficient and that the raw data can come in
21 as long as, again, not Special Agent Wilde, but --

22 **MR. ENZINNA:** Yes. We've withdrawn our foundation
23 objection to the raw GPS data.

24 **THE COURT:** Okay. All right. Thank you.

25 I will look at the Government motion to exclude.

1 Okay. The other issue that we have has been quite
2 thoroughly briefed, and we did have another conversation about
3 it. But the issue of additional testimony, initially proposed
4 to be from Mr. Lamont, relating to an examination which I
5 believe was done by Mr. Wagster, perhaps with Mr. Lamont being
6 the co-examiner, but an examination that was done by
7 Mr. Wagster of the gun involved, allegedly, in the Terrell Gale
8 shooting.

9 My recollection is that there was cross-examination of
10 Mr. Wagster about whether a comparison of casings had been done
11 between the -- there's certain ballistic evidence from the Gale
12 shooting and other ballistic evidence from -- I'm blocking.

13 **MS. HOFFMAN:** The James Edwards murder.

14 **THE COURT:** -- the James Edwards/Bangout murder.

15 Mr. Wagster said that that comparison had not been
16 done.

17 There was an attempt on cross-examination to go into
18 what I now understand to be an explanation of why that
19 comparison was not done in relation to both a NIBIN system and
20 the fact that, again, in Mr. Wagster's opinion -- and I guess
21 it would be -- Mr. Lamont's would be the same, based on his
22 class-characteristic comparison, that there were different
23 shapes of impressions on the firing pin heads, leaving
24 different shapes of impressions, one being elliptical, one gun
25 being hemispheric. Therefore, the bullets could not have come

1 from the same gun; and, therefore, no need for microscopic
2 comparison.

3 My ruling on the issue so far is that I believe I was
4 incorrect in refusing to allow redirect on that issue when
5 Mr. Wagster was on the stand; that I think, based on looking at
6 the discovery, that I've seen that the fact of the examination
7 of both guns and bullets and the distinction in the impressions
8 left by the firing pin heads is quite clear from the discovery
9 that was provided; and that it, as it would be misleading to
10 leave an impression, that there was no reason why a
11 microscopic, side-by-side comparison of the casings was not
12 done.

13 However, I did rule that Mr. Lamont could not testify
14 to that today, that there had been no -- not sufficient prior
15 notice, that it would have to be sometime next week. And I
16 have asked defense counsel whether they think, recognizing they
17 object to it completely, but whether it should be through
18 Mr. Lamont or through re-calling Mr. Wagster.

19 The reason for delaying also, of course, is for time
20 to consult with defense experts and see if, either for
21 cross-examination on this point or whether they eventually will
22 want to present any rebuttal evidence as to the shape the
23 firing-pin impressions left, and whether that's accurate.

24 So I'm not asking for agreement/disagreement in
25 general, but is that an accurate summary of what you think our

1 conversation and my ruling has been so far?

2 **MS. HOFFMAN:** Yes.

3 **MR. ENZINNA:** Your Honor, I believe there are a couple
4 of inaccuracies in that.

5 **THE COURT:** Please tell me.

6 **MR. ENZINNA:** First of all, I think that there was no
7 misleading impression created by the cross-examination, because
8 Mr. Wagster was asked: Did you compare the two guns?

9 And he answered he did not, which is a truthful
10 answer. He did not.

11 He was not asked: Did you conduct a microscopic
12 comparison?

13 He was asked: Did you compare the two guns?

14 And that would include comparing the firing pin
15 shapes. And the Government could have -- and probably should
16 have -- addressed this on redirect by simply asking him: Why
17 didn't you compare the two? Instead of going into the NIBIN
18 system. And that's what happened here.

19 So we don't think the Government should have another
20 opportunity to buttress Mr. Wagster's testimony.

21 However, if the Court rules that the Government can
22 have that opportunity, we have no objection to it being
23 presented through Mr. Lamont, especially given Mr. Wagster's
24 circumstances --

25 **THE COURT:** Okay.

1 **MR. ENZINNA:** -- with his family situation, his wife's
2 illness.

3 **THE COURT:** Sure. So either Mr. Wagster or
4 Mr. Lamont, and we'll just agree to disagree.

5 I think the very fact that you've suggested another
6 question that could have been asked on redirect is consistent
7 with my feeling about it, that there should have been an
8 opportunity to redirect. And not fully understanding the
9 context of all of this, I cut the Government off; and that was
10 not appropriate.

11 So you all can decide. Do you have any -- you all can
12 talk about whether it's -- or you can decide whether it's going
13 to be Mr. Lamont or Mr. Wagster.

14 Is there any particular -- does it matter whether it
15 is Monday or Tuesday or exactly what day next week?

16 **MS. WHALEN:** No.

17 **THE COURT:** No. Okay.

18 **MS. HOFFMAN:** Thank you. And we'll consult with
19 Mr. Wagster to see how his wife is doing and whether he's able
20 to come in. And we'll --

21 **THE COURT:** Right.

22 **MS. HOFFMAN:** -- let the defense know who it will be
23 and when.

24 **THE COURT:** Okay. All right. We are going to
25 adjourn.

1 Let me excuse the gallery first.

2 **MS. AMATO:** Your Honor, I just wanted to bring up that
3 there may be one other issue pertaining to the Government's
4 next witness after Mr. Lashley is finished,
5 Officer Joe Schmidt.

6 But I'll speak with Government counsel over the
7 weekend and see if we can resolve the issue. I'm trying to
8 work out a stipulation with them, and that particularly
9 pertains to that witness.

10 If we cannot, then there will be an issue.

11 **THE COURT:** Okay. And that's -- for various reasons,
12 that's why I'm asking that counsel and the defendants,
13 obviously, that all the clients be here, that we would be able
14 to start in court as early as 10:00. And I'm sure there will
15 be issues to discuss.

16 **MS. HOFFMAN:** Thank you.

17 And, Your Honor, may I just request clarification on
18 the GPS data? I just want to make sure that I'm not jumping
19 the gun.

20 Given that Mr. Enzinna has withdrawn the foundational
21 objection to the raw GPS data, is the ruling currently that the
22 raw GPS data can come in through a fact witness? Or is
23 Your Honor reserving ruling on that?

24 **THE COURT:** No. As I understand it, at this point the
25 defense still wants me to rule on whether the second set of

1 documents is admissible.

2 But regardless of the result of that, they've
3 withdrawn their objection to the foundation and --

4 **MS. HOFFMAN:** Thank you.

5 **THE COURT:** -- you are permitted to bring in the raw
6 GPS data through a fact witness.

7 **MS. HOFFMAN:** Thank you.

8 And relatedly, we had raised the issue of a recent
9 drive test conducted by Agent Tim Moore. And when I say
10 "drive test," I don't mean testing the coverage area of the
11 towers.

12 **THE COURT:** Right.

13 **MS. HOFFMAN:** I just mean simply driving from one
14 point to another.

15 **THE COURT:** Right.

16 **MS. HOFFMAN:** We are planning to re-call Agent Moore
17 next week. I can't remember whether it's Monday or Tuesday or
18 Wednesday.

19 But we would ask that we be permitted, now that the
20 defense has had notice, to have him testify about that as well,
21 along with the raw GPS data.

22 **THE COURT:** And that, again, is not cell phone
23 coverage. It's just I get in my car, and I drive from A to B.

24 **MS. HOFFMAN:** Exactly.

25 **THE COURT:** And they know what A and B is; right?

1 **MR. ENZINNA:** Your Honor, I'm sorry. I would request
 2 that to the extent that Agent Moore is going to testify about
 3 these raw GPS data locations, that we be notified in advance of
 4 exactly where he places them.

5 **THE COURT:** Yes. Okay. Yes. You did make that
 6 request, and that should be given in advance.

7 **MS. HOFFMAN:** No problem.

8 **THE COURT:** Reasonably in advance, not right before he
 9 testifies.

10 **MR. ENZINNA:** Thank you.

11 **THE COURT:** Okay. All right. Then I am going to
 12 excuse the gallery.

13 Okay. And I may be reaching out for a phone call
 14 tomorrow, but I think we can adjourn for today. Okay.

15 (Court adjourned at 5:14 p.m.)

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1 I, Douglas J. Zweizig, RDR, CRR, do hereby certify that
2 the foregoing is a correct transcript from the stenographic
3 record of proceedings in the above-entitled matter.

4 _____
5 /s/

6 Douglas J. Zweizig, RDR, CRR, FCRR
7 Registered Diplomat Reporter
8 Certified Realtime Reporter
9 Federal Official Court Reporter
10 DATE: November 14, 2019
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